

**BEFORE THE HONOURABLE SERVICE TRIBUNAL**  
**KHYBER PAKHTUNKHWA, PESHAWAR**

Service Appeal No. 1294/2018

Mst. Faiza Shafi, DEO (Female), Abbottabad.



...APPELLANT

**VERSUS**

Govt. of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar & others.

...RESPONDENTS

**REJOINDER ON BEHALF OF APPELLANT**

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3.	Copies of transfer posting Policy	18 to 22	"B"
4.	Copies of minutes of Placement Committee	23 to 26	"C"
5.	Copies of officers of -teaching cadre	27 to 30	"D"
6.	Copy of writ petition 818-A/2018 along with order sheet.	31 to 42	"E"
7.	Copy of policy of M/C	45-49	"F"

  
..APPELLANT

Through;

Dated: \_\_\_\_\_/2019

(Muhammad Arshad Khan Tanoli)  
Advocate High Court, Abbottabad.

**BEFORE THE HONOURABLE SERVICE TRIBUNAL**  
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**...RESPONDENTS**

**SERVICE APPEAL**

**REJOINDER ON BEHALF OF APPELLANT**

Respectfully Sheweth;-

**PRELIMINARY OBJECTIONS:**

1. Para No. 1 of the preliminary objections of the comments is incorrect and denied. The appellant has been transferred from Abbottabad as DEO (F) to RITE Mansehra as Senior Instructor on the grounds that the appellant did not issue transfer

order of Mst. Ayesha Janzeb on the illegal, instructions of Special Secretary Elementary & Secondary Education Peshawar. As a result, the appellant has been transferred with malafide intentions to accommodate one blue eyed officer who was transferred after serving 04 years in Abbottabad and was transferred Just 03 Months ago to Haripur . In this regard a summary for Chief Minister regarding posting /transfer of Samina Altaf was moved on 18/05/2018 showing the post of DEO (F) Abbottabad as vacant. In fact, the post of DEO (Female) was occupied by the appellant. The summary of posting/transfer of Samina Altaf has been attached by the department with the comments, which shows malafide on the part of department and astonishingly CM KPK gives remarks that the proposed officer be given additional charge of Abbottabad alongwith the Haripur.

2. Para No. 2 is incorrect hence, denied.
3. Para No. 3 is incorrect, hence, denied.
4. Para No. 4 is incorrect and denied.

5. Para No. 5 is incorrect and denied. Necessary parties as per law have been arrayed as respondents.
6. Para No. 6 is incorrect and denied.
7. Para No. 7 is incorrect and denied. If appellant was transferred on 31/07/2018 then why do the additional secretary and afterwards SO(F) directed the appellant telephonically to transfer Ayesha Jahanzeb and forwarded a Whatsapp regarding the same on 01/08/2018.
8. Para No. 8 is incorrect and denied. In fact, impugned transfer notification was intentionally back dated and the same act has been mentioned by the Honourable High Court Bench Abbottabad in Writ Petition No. 900-A/2018 decided on 05/09/2018. Copy of the same is attached with the service appeal.
9. That Para No. 9 is correct to the extent that appellant's post is a teaching cadre post. Rest of the para is incorrect. It is further submitted that

there is only one DEO (F) of Management Cadre in the entire KPK and she is working as DEO (F) Haripur. It is not out of place to mention here that Male DEOs with dual charge are serving as DEO (F) near about 3-4 District of Khyber Pakhtunkhwa and Female Deputy DEO's are working with dual charge in almost 20 districts. Rest of the Districts Posts of DEO (F) is occupied by the Female Officer of teaching cadre.

10. That Para No.10 is incorrect and denied. That the appellant has been transferred with malafide intention as the appellant did not obey illegal orders of the higher authorities with regard to one female teacher whose appointment was on school based and she was the only teacher serving in GPS Patan Kalan in her own Union Council.
11. That Para No. 11 is incorrect. The appellant was forced to relinquish the charge of the post which is contrary to the rules. It is further submitted that during the pendency of departmental appeal department is not supposed to force the appellant to take over the charge on other station. The appellant is a competent DEO, who received top

performance certificate in Jan, 2018 and afterwards, transferred to an institution, which is supposed to be abolished in near future and made the appellant a rolling stone.

1- Performance Certificate. (Annex-A)  
 2- Press clipping.  
 4- ... ..

**REJOINDER ON FACTS; -**

1. That Para No.1 needs no reply.
2. That Para No. 2 needs no reply.
3. That Para No. 3 is correct to the extent that DEO (F) post is management cadre post. Rest of the para is incorrect. As per judgments of the superior courts, competent authorities are to act and use discretionary powers with judicious mind. The blunt use of discretionary powers are always malafide and is a result of personal grudges and feuds.
4. That Para No. 4 needs no reply.
5. That Para No. 5 is correct to the extent that the appellant was posted as DEO(F) Torghar. Rest of

the para is incorrect. In fact, there is only one DEO(F) in BPS-19 of the management cadre. The female officer of BPS-18 and BPS-19 of teaching cadre are serving in KPK as DEO (F) to run the show and the other Deputy DEO's of management cadre have assigned the additional charge of DEO(F).

6. That Para No. 6 is incorrect and denied. The competent authority is bound to follow the transfer/ posting laws keeping in view tenure policy as well as placement policy/ rules, which was just 01 year and 05 months. Copy of placement policy is attached as Annexure "B".
7. Para No. 7 is incorrect, whereas para No. 7 of the appeal is correct as per record.
8. Para No. 8 is incorrect. The appellant was transferred on 02/08/2018 but the date of transfer order was intentionally back dated i.e 31/07/2018. The Honourable Peshawar High Court Bench Abbottabad also taken view of the matter and also held that the transfer order of the appellant is back dated.

9. That Para No. 9 is incorrect and denied. The appellant is serving as DEO (F) from the date of her transfer i.e 01/10/2016 till 02/08/2018 but the so-called proposal shows that Mst. Samina Altaf has been recommended as DEO(F) Abbottabad against vacant post which was/is occupied by the appellant. (Annex - C)

10. That Para No. 10 is correct to the extent of the writ petition. Rest of the para is incorrect because writ petition of the appellant was not dismissed but it was disposed off. It is also submitted that the then special Secretary whose orders were not complied with by the appellant, now he is Secretary E&SE KPK and with malafide intentions issues orders of so-called fishing expedition and roving inquiries against the appellant and create embarrassing situation.

11. That para No. 11 of the comments is incorrect, whereas, para No. 11 of the appeal is correct.



**REJOINDER ON GROUNDS; -**

- a) Para (a) of the ground is incorrect and denied.  
Detailed reply has been given in preceding paras.
- b) Para (b) is incorrect and denied.
- c) Para (c) is incorrect and denied. In fact, when appellant refused to comply with illegal direction of Special Secretary Elementary & Secondary Education on 01/08/2018, therefore, she was transferred on 02/08/2018 with back dated.
- d) Para (d) is incorrect.
- e) Para (e) is incorrect and denied. That she was transferred without completing her normal tenure. Moreover, due to shortage of Management Cadre officers, already 16 DEO(M) and 5 Deputy DEO(M), 5 DEO(F), BPS-19 & Deputy DEO(F), BPS-18 teaching cadre are working with dual charge. (Annex-D)
- f) Para (f) is incorrect and denied.

- g) Para (g) is incorrect and denied and does not relate to para (g) of the appeal.
- h) Para (h) is incorrect and denied.
- i) Para (i) is incorrect.
- j) Para (j) is incorrect and denied. The appellant got suspended transfer notification on 19/10/2018 from this Honourable Tribunal but respondents' department did not implement the order of this Honourable Tribunal dated 19/10/2018. Therefore, the appellant approached the Honourable High Court for implementation of order of this Honourable Tribunal and it took one month in implementation of the order through orders of Honourable High Court. Copies of writ petition and order sheets duly attested are attached as Annexure "E".
- k) Para (k) is incorrect and denied. No authority is empowered to transfer an employee on his own whims and wishes without following the rules on the subject.

- l) Para (l) is incorrect.
  
- m) Para (m) is incorrect and denied whereas the para (m) of the appeal is correct.
  
- n) Para (n) is incorrect whereas the para (n) of the appeal is correct.
  
- o) Para (o) is incorrect and denied.
  
- p) Para (p) of the comments has already been replayed in the preceding paras.
  
- q) Para (q) is incorrect. Back dated notification is malafide, against the law.
  
- r) Para (r) is incorrect and denied.
  
- s) Para (s) is incorrect and denied. The competent authority is not supposed to regret the appeal of the appellant without affording opportunity of personal hearing. Moreover, she was posted as DEO (F) not on stop gape arrangement.

It is prayed that appeal of the appellant may graciously  
be accepted as prayed for.

**..APPELLANT**

Through;

Dated: \_\_\_\_\_/2019

**(Muhammad Arshad Khan Tanoli)**  
Advocate High Court, Abbottabad

**AFFIDAVIT;**

I, Mst. Faiza Shafi, DEO (Female), Abbottabad, do hereby solemnly affirm  
and declare that the contents of forgoing rejoinder are true and correct to the  
best of my knowledge and belief and nothing has been concealed therein  
from this Honourable Court.



**DEPONENT**

D.F.A

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR  
AT CAMP COURT ABBOTTABAD.

Service Appeal No. 1294/2018

Date of Institution ... 10.10.2018

Date of Decision ... 20.02.2019

Faiza Shafi, District Education Officer (Female), District Abbottabad.

... (Appellant)

VERSUS

Govt: of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa  
Peshawar and five others. ... (Respondents)

-----  
MR. MUHAMMAD ARSHAD KAHN TANOLI,  
Advocate

--- For appellant.

MR. MUHAMMAD BILAL,  
Deputy District Attorney

--- For respondents

MR. AHMAD HASSAN,  
MR. MUHAMMAD AMIN KHAN KUNDI

--- MEMBER(Executive)  
--- MEMBER(Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER:- Arguments of the learned counsel for the  
parties heard and record perused.

ARGUMENTS

2. Learned counsel for the appellant argued that she is an Officer of BPS-19 and  
posted as DEO (F) Abbottabad since October, 2016. Prior to that appellant was  
transferred from one station to another within a short span of time. On 01.08.2018  
Special Secretary, Elementary and Secondary Education Department, Khyber  
Pakhtunkhwa directed the appellant to issue transfer order of Miss. Aisha Jehanzeb,  
GGPS Lari banota to Abbottabad before closing <sup>office</sup> hours. Due to genuine <sup>administration</sup> ~~administration~~  
consideration, she did not comply with the orders. Resultantly, vide impugned order

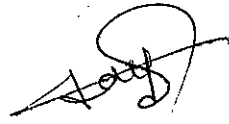
presently

and informed the concerned in writing.

**BEFORE THE HONOURABLE SERVICE TRIBUNAL**  
**KHYBER PAKHTUNKHWA, PESHAWAR**

Service Appeal No. 1294/2018

Mst. Faiza Shafi, DEO (Female), Abbottabad.



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5.	Copies of officers of teaching cadre	27 to 30	"D"

6. Copy of writ petition 818-A/2018 along with order sheet. 31 to 44 "E"

7. Copy of policy of MC 45-49

..APPELLANT

Through;

Dated: \_\_\_\_\_/2019

(Muhammad Arshad Khan Tanoli)  
Advocate High Court, Abbottabad

dated 31.07.2018, she was transferred from Abbottabad to Mansehra. She preferred departmental appeal on 07.08.2018 which was rejected on 08.10.2018. She moved Peshawar High Court/<sup>Abbottabad Bench</sup> through writ petition no. 900-A/2018. Peshawar High Court, Abbottabad bench vide judgment dated 05.09.2018 converted the writ petition <sup>into</sup> as representation/appeal with directions to the Chief Secretary, Khyber Pakhtunkhwa for disposal within a period of thirty days. Order issued by the respondents is a true depiction of revenge and mal<sup>icious</sup> intent. Instead of posting an officer on regular <sup>basis</sup> post as DEO (F) additional charge has been assigned to the DDO (F).

3. Learned Deputy District Attorney argued that post of DEO (F) belongs to the <sup>M</sup> management <sup>C</sup> cadre, while the appellant hails from teaching cadre and is not eligible to be posted as DEO. <sup>S</sup> she was posted to right <sup>RITE against merit for</sup> being a post of the teaching cadre. She has completed normal tenure at the place of his previous posting (DEO (F) Abbottabad). Every civil servant is liable to serve anywhere in the province <sup>under</sup> according to Section-10 of the Civil Servant Act 1973, <sup>A</sup> a government servant cannot get a posting of his/her choice. He further clarified that a meeting of placement committee was held on 27.02.2018, wherein it was recorded that the appellant be transferred as Instructor <sup>RITE</sup> (F) Mansehra being of teaching cadre. After getting approval from the Chief Minister, posting/transfer was notified. As general ban <sup>on</sup> of posting/<sup>S</sup> transfer <sup>S</sup> was imposed by the Election Commission of Pakistan, therefore/<sup>her or</sup> posting/<sup>S</sup> of the appellant was notified after lifting of the ban on 31.07.2018. The charge leveled by the appellant that her transfer resulted due to refusal of posting/transfer of a PST, Teacher as ordered by the Special Secretary E&SE Department does not hold water.

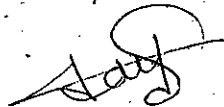
*Tajinder Khatun*

1

**BEFORE THE HONOURABLE SERVICE TRIBUNAL**  
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Respectfully Sheweth:-

**PRELIMINARY OBJECTIONS:**

1. Para No. 1 of the preliminary objections of the comments is incorrect and denied. The appellant has been transferred from Abbottabad as DEO (F) to RITE Mansehra as Senior Instructor on the grounds that the appellant did not issue transfer



CONCLUSION.

4. A meeting of the placement committee was held on 27.02.2018, wherein it was decided that the appellant be posted as Instructor <sup>RITE</sup> (F) Mansehra. Thereafter the case was processed and approval of the Chief Minister, <sup>Khyber Pakhtunkhwa through</sup> was obtained on a summary moved by the Elementary and Secondary Department. It is further clarified and is quite evident from the summary referred to above that notification of posting/transfer was held up due to general ban imposed by the Election Commission of Pakistan on the <sup>e</sup> Eve of <sup>G</sup> General Election. After <sup>s</sup> lifting general ban on posting/transfer, <sup>s</sup> the appellant was posted as Instructor <sup>RITE</sup> (F) Abbottabad vide notification dated 31.07.2018.
5. As the appellant belongs to the teaching cadre, so she should not have been posted as DEO(F) Abbottabad which is earmarked for the officer of <sup>M C</sup> management cadre. <sup>It is presumed</sup> there might be a possibility with her posting as DEO (F) was ordered in the exigency of <sup>A</sup> service, however, she cannot lay claim against a post for which she is not eligible. The appellant has already completed <sup>the</sup> normal tenure at the place of her previous posting. Having gone through the entire record the charge of <sup>non compliance</sup> defective orders of Special Secretary E&SE Department which resulted in her transfer <sup>remained in</sup> could not be substantiated by the ~~learned counsel~~ for the appellant.
6. As a sequel to above, the appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

(AHMAD HASSAN)  
Member  
Camp Court Abbottabad.

(MUHAMMAD AMIN KHAN KUNDI)  
Member

ANNOUNCED  
20.02.2019

order of Mst. Ayesha Janzeb on the illegal, instructions of Special Secretary Elementary & Secondary Education Peshawar. As a result, the appellant has been transferred with malafide intentions to accommodate one blue eyed officer who was transferred after serving 04 years in Abbottabad and was transferred Just 03 Months ago to Haripur. In this regard a summary for Chief Minister regarding posting /transfer of Samina Altaf was moved on 18/05/2018 showing the post of DEO (F) Abbottabad as vacant. In fact, the post of DEO (Female) was occupied by the appellant. The summary of posting/transfer of Samina Altaf has been attached by the department with the comments, which shows malafide on the part of department and astonishingly CM KPK gives remarks that the proposed officer be given additional charge of Abbottabad alongwith the Haripur.

2. Para No. 2 is incorrect hence, denied.
3. Para No. 3 is incorrect, hence, denied.
4. Para No. 4 is incorrect and denied.



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT  
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar  
Fax # 091-9211419

**NOTIFICATION**

Dated Peshawar the November 19<sup>th</sup> 2018

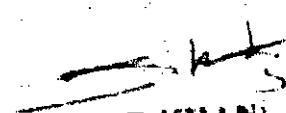
**NO. SO(S/F)E&SED/4-16/2018/Mst. Faiza Shafi/BS-19/Abbottabad:** In pursuance of Khyber Pakhtunkhwa Service Tribunal Peshawar order dated 19-10-2018 delivered in Service Appeal No#1294/2018, the transfer notification of even No. dated 31-07-2018 issued in r/o Mst. Faiza Shafi (BS-19) may be treated as suspended till further orders

No TA/DA allowed.

**SECRETARY**

**Encls: of even No. & date:**

- Copy forwarded to the
1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Director E&SE Khyber Pakhtunkhwa, Peshawar.
3. Director DC TE, Khyber Pakhtunkhwa, Abbottabad.
4. District Education Officer (Female) Abbottabad
5. District Accounts Officers Abbottabad & Manshra
6. Principal RTE (Female) Manshra
7. In charge EMIS, E&SE Department for uploading at official website.
8. PS to Principal Secretary to Chief Minister, Khyber Pakhtunkhwa, Peshawar
9. PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar
10. PS to Minister E&SE, Khyber Pakhtunkhwa, Peshawar
11. PS to Secretary E&SE Department.
12. Officer concerned.
13. Office order file

  
(SHABIR KHAN)  
SECTION OFFICER (SCHOOLS FEMALE)



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT  
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar  
Fax # 091-9211419

**NOTIFICATION**

Dated Peshawar the November 19<sup>th</sup> 2018

**NO. SO(S/F)E&SED/4-16/2018/Mst. Faiza Shafi/BS-19/Abbottabad:** In pursuance of Khyber Pakhtunkhwa Service Tribunal Peshawar order dated 19-10-2018 delivered in Service Appeal No#1294/2018, the transfer notification of even No. dated 31-07-2018 issued in re Mst. Faiza Shafi (BS-19) may be treated as suspended till further orders

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**SECRETARY**

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12. Officer concerned.
13. Office order file

  
(SHABIR KHAN)  
SECTION OFFICER (SCHOOLS FEMALE)

23

# وکالت نامہ

کورٹ فیس

Service Tribunal ICD Peshawar بعدالت

Mst Faizah Shafi DC نام Govt of ICD عنوان

Appellant منجانب:

نوعیت مقدمہ:

## باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کاروائی متعلقہ آں مقام

AFD. M. Arshad Khan Tanoli Adv

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل

صاحب موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری

کرانے اجراء وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت

ضرورت مقدمہ مذکور کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی

بجائے تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا

ساختہ پرداختہ مجھ کو منظور و قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہرجانہ اتوائے مقدمہ کے سبب ہوگا اس کے

مستحق وکیل صاحب ہوں گے۔ نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا

حد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں

کوئی جز و بقایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراد

استجارت نالاش بصیغہ مفلسی کے دائر کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

المقوم: موی المشر 2010

بمقام: Abbolaha

السعبد

Accept -



GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION  
DEPARTMENT

No. SPS/11 & S/11-4-10/2018-Miss. Ayesha Jehanzab/Abbottabad  
Dated Peshawar the August 1<sup>st</sup>, 2018

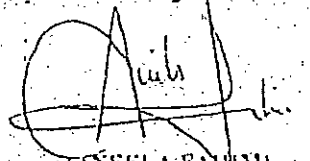
To  
The District Education Officer (I em det),  
District Abbottabad

SUBJECT: REQUEST FOR TRANSFER

I am directed to refer to the subject noted above and to intimate that the Competent Authority has granted sanction/ approval for the transfer of Miss. Ayesha Jehanzab, Primary Teacher (BPS-12) Govt. Girls School Lauri U.C Pattan Kalan to Abbottabad city or nearby station as desired in the enclosed application.

You are, therefore, directed to issue her transfer order today before closing hours under intimation to this Secretariat.

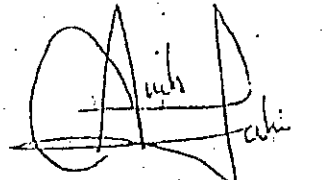
Encl: as above

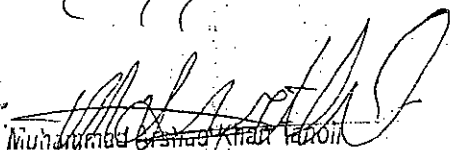
  
(GUNEELA PARIMI)  
SECTION OFFICER (S/O)

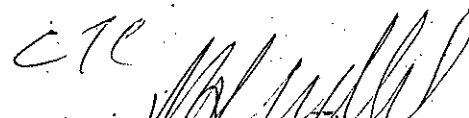
Ends: of even No. & Date:

Copy forwarded to the:

1. Director E&SE Khyber Pakhtunkhwa, Peshawar.
2. PS to Secretary, E&SE Department.
3. PS to Special Secretary, E&SE Department.
4. PA to Additional Secretary, E&SE Department.

  
SECTION OFFICER (S/O)

  
Muhammad Asim Khan Tanoli  
Advocate High Court  
Office No. 33 Adjacent to  
Distt. Bar Abbottabad

  
Muhammad Asim Khan Tanoli  
Advocate High Court  
Office No. 33 Adjacent to  
Distt. Bar Abbottabad

**BEFORE THE SERVICE TRIBUNAL, KPK PESHAWAR.**

Appeal No: 1849/18

Mst. Faiza Shafi DEO (F) District Abbottabad.

**...APPELLANT**

**VERSUS**

Govt. of KPK through Chief Secretary KP, Peshawar & others.

**...RESPONDENTS**

**APPLICATION**

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**...APPELLANT**

Through

Dated: \_\_\_\_\_/2018

  
**(Muhammad Arshad Khan Tanoli)**  
Advocate High Court, Abbottabad

①

**BEFORE THE SERVICE TRIBUNAL, KPK PESHAWAR.**

Mst. Faiza Shafi DEO (F) District Abbottabad.

...APPELLANT

VERSUS

Govt. of KPK through Chief Secretary KP, Peshawar & others.

...RESPONDENTS

**SERVICE APPEAL**

*amendment in the*  
**APPLICATION** FOR ~~STATUS~~ STATUS QUO ORDER  
DATED 12/10/2018 TO THE EXTENT THAT IMPUGNED  
NOTIFICATION NO.SO(S/F)E&SED/4-16/2018 MST.  
FAIZA SHAFI BPS-19 ABBOTTABAD DATED 31/07/2018  
OF THE APPELLANT MAY ~~BE~~ BE SUSPENDED.

*kindly*

---

Respectfully Sheweth:-


1. That the appeal No.1294/18 of the appellant is pending adjudication before this Honourable Court and next date of hearing is fixed on 18/10/2018. Copy of appeal is attached as Annexure "A".
2. That the appellant sought suspension of impugned transfer order dated 31/7/2018 of the appellant was to be suspended through interim relief.



2

3. That this Honourable Court has graciously granted status quo without suspending impugned Notification dated 31/07/2018. Copy of impugned Notification dated 31/07/2018 and status quo order dated 12/10/2018 of this Honourable Court is attached as Annexure "B".

In view of the above, it is prayed that status quo order dated 12/10/2018 may graciously be reviewed to the extent that transfer Notification No.SO(S/F) E&SED/4-16/2018 Mst. Faiza Shafi/BPS-19 dt 31-7-2018 Abbottabad of the appellant may also be ordered to be suspended.



...APPELLANT

Dated: \_\_\_\_\_/2018

Through



(Muhammad Arshad Khan Tanoli)  
Advocate High Court, Abbottabad

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR**

3

Service Appeal No. 1294-A/2018

Faiza Shafi District Education Officer (Female), District Abbottabad.

Annex "A"

...APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa, through Chief Secretary, Peshawar and others.

...RESPONDENTS

**SERVICE APPEAL**

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5.	Copy of Notification dated 14/09/2015	19	"C"
6.	Copy of Notification	20	"D"
7.	Copy of Notification dated 22/06/2016	21	"E"
8.	Copy of order dated 01/08/2018	22	"F"
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17.	Court Fee worth of Stamp paper Rs. 500/-		
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*[Signature]*  
...APPELLANT

Through

(Muhammad Arshad Khan Tanoli)  
Advocate High Court, Abbottabad

Dated: 10/10 /2018

*[Signature]*  
Muhammad Arshad Khan Tanoli  
Advocate High Court  
Office No. 33 Adjacent to  
Distt. Qtr Abbottabad

Muhammad Arshad Khan Tanoli  
Advocate High Court  
Office No. 33 Adjacent to  
Distt. Qtr Abbottabad

(4)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE**  
**TRIBUNAL PESHAWAR**

Service Appeal No. \_\_\_\_\_ -A/2018

Faiza Shafi District Education Officer (Female), District Abbottabad.

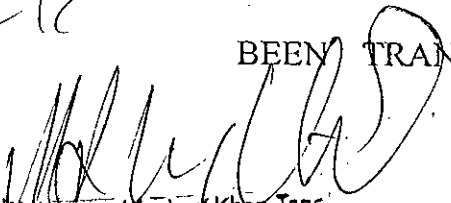
...APPELLANT

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Chief Secretary, Peshawar.
2. Secretary Elementary & Secondary Education Department, Peshawar.
3. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
4. Principal RITE (Female) Mansehra.
5. District Accounts Officer, Abbottabad.
6. District Accounts Officer, Mansehra

...RESPONDENTS

**SERVICE APPEAL UNDER SECTION 4 OF  
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
ACT, 1974 SEEKING DECLARATION/ DIRECTION  
TO THE EFFECT THAT THE APPELLANT HAS  
BEEN TRANSFERRED FROM THE POST OF**

CTC  
  
Muhammad Arshad Khan Tanc  
Advocate High Court  
Office No. 33 Adjacent

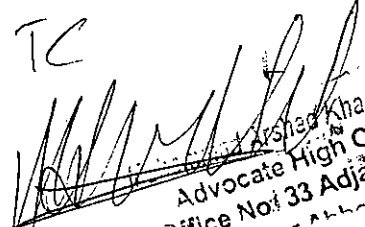
DISTRICT EDUCATION OFFICER (F) (5)  
 ABBOTTABAD AND POSTED AS INSTRUCTOR  
 (BS-19) RITE (FEMALE) MANSEHRA VIDE  
 NOTIFICATION DATED 31/07/2018, WHICH IS  
 ILLEGAL, UNLAWFUL, WITHOUT LAWFUL  
 AUTHORITY, ARBITRARY, PERVERSE,  
 DISCRIMINATORY, MALAFIDE AND  
 CONSEQUENTLY OF NO LEGAL EFFECT UPON  
 THE RIGHTS OF APPELLANT.

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PRAYER: ON ACCEPTANCE OF THE INSTANT  
 APPEAL, THE IMPUGNED NOTIFICATION DATED  
 31/07/2018 ISSUED BY RESPONDENT NO. 2 MAY  
 KINDLY BE SET-ASIDE AND RESPONDENTS BE  
 GRACIOUSLY DIRECTED NOT TO COMPEL THE  
 APPELLANT TO RELINQUISH THE CHARGE OF  
 THE POST FROM DISTRICT EDUCATION OFFICER  
 (FEMALE) ABBOTTABAD. ANY OTHER RELIEF  
 DEEMED FIT AND PROPER IN THE  
 CIRCUMSTANCES OF THE CASE.

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*Respectfully Sheweth;-*

CTC  
  
 Arshad Khan Tano  
 Advocate High Court  
 Office No 33 Adjacent to  
 Court 27, Abbottabad

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The facts giving rise to the instant appeal are arrayed as under:-

1. That the appellant is presently working as District Education Officer (Female) BPS-19, Abbottabad, since October, 2016. (Copy of order is attached as Annexure "A"). → 17
2. That the appellant was transferred from GGCMHS, Haripur to DEO (Female) Torghar, vide Notification No. SO(S/F)E&SE/4-16/2013/Faiza Shafi DEO(Female) dated 25/04/2014. (Copy of Notification is attached as Annexure "B"). — First posting 18
3. That once again the appellant was transferred from Torghar to DEO (Female), Mansehra vide Notification dated 14/09/2015. (Copy of Notification dated 14/09/2015 is attached as Annexure "C"). → 19

That after the short span of time again the appellant was transferred from Mansehra and the services of the appellant were placed at the

CTC

*Muhammad Arshad Khan Tanc.*  
Advocate High Court  
Office No. 33 Adjacent to  
Abbottabad

disposal of the Director (E&SE) KPK, Peshawar  
 vide Notification No. SO(S/F) E&SE/4-  
 16/DEO(F) dated 05/04/2016. (Copy of  
 Notification is attached as Annexure "D"). → 20

5. That the appellant was once again transferred to District Torghar as DEO(F) vide Notification dated 22/06/2016. (Copy of Notification dated 22/06/2016 is attached as Annexure "E").
6. That after only three months the appellant was once again transferred to Abbottabad as DEO(F) vide order dated 26/09/2016. (Copy of order dated 26/09/2016 already attached as Annexure "A").
7. That on 01/08/2018 the Special Secretary (E&SE) Department Peshawar, directed the appellant to issue the transfer order of Miss. Ayesha Jehanzeb GGPS Lari Banota PST (BPS-12) U/C Pattan. Kalan to Abbottabad, before closing hours under intimation to Secretary (E&SE) KPK, Peshawar. (Copy of order dated 01/08/2018 is attached as Annexure "F").

C.T.C.  
 Mr. Muhammad Arshad Khan Tanoli  
 Advocate High Court  
 Office No. 33 Adjacent

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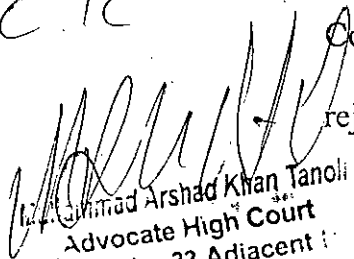
8. That after thorough checking of the transfer case it was submitted to the concern authority that GGPS Lari is a single teacher school and on account of the said transfer the school will be closed/ non functional, so the appellant was not in a position to comply the illegal and unlawful order. (Copy of letter dated 01/08/2018 is attached as Annexure "G").

9. That on account of non-compliance of above referred unlawful and illegal order dated 01/08/2018 the appellant was once again transferred from Abbottabad to RITE Mansehra vide order dated 31/07/2018. (Copy of order dated 31/07/2018 is attached as Annexure "H")

10. That the appellant filed departmental appeal against the impugned transfer order dated 31/07/2018 which was issued back dated, vide departmental appeal dated 07/08/2018 which has been rejected without following the direction dated 05/09/2018 of Honourable High Court Bench Abbottabad in Writ Petition No. 900-A/2018.

Copy of departmental appeal dated 07/08/2018, rejection order dated 08/10/2018 and judgment

C.T.C.

  
Arshad Khan Tanoli  
Advocate High Court  
Office No. 33 Adjacent

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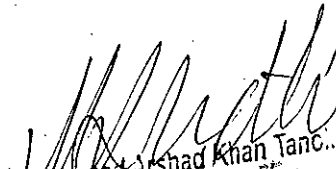
dated 05/09/2018 of Honourable High Court, Abbottabad Bench in W.P No. 900-A/2018 are attached as Annexure "I", "J" & "K".

11. That feeling aggrieved, the appellant assails the impugned order dated 31/07/2018 being illegal, unlawful, against the law, inter-alia, on the following amongst many other; -

GROUND:-

- a) That, the impugned order/Notification dated 31/07/2018 as has been issued by the respondent No.1 is illegal, unlawful, without lawful authority, arbitrary, perverse, discriminatory, malafide and consequently of no legal effects upon the rights of appellant.
- b) That the appellant has served with best of her ability for the entire satisfaction of her superiors.

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Advocate High Court  
Office No 33 Adjacent to

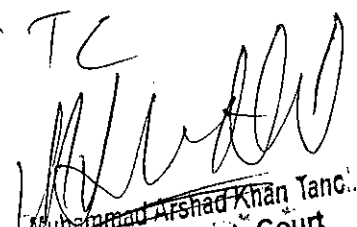


- c) . That it is pertinent to mention here that the order dated 31/07/2018 has been issued on 02/08/2018 with malafide intention just to conceal the facts of the case.
- d) That the desired transfer order of the aforesaid PST Teacher was clear cut violation of the Transfer Posting Regulatory Act, 2011. (Copy of the said Regulatory Act, 2011 is attached as Annexure "L")
- e) That due to frequent transfers of the appellant during the session, the education/ study of the appellant's two minor daughters studying in Class 2<sup>nd</sup> and 6<sup>th</sup> is being affected badly.
- f) That on account of aforesaid political and administrative based frequent transfers the appellant and the family/ children of the appellant have been very badly tortured which resultantly affected the health of the appellant and the family matters as well.

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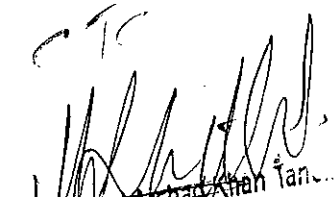
Muhammad Arshad Khan  
Advocate High Court  
Office No. 33 Adjacent

- g) That regarding the above said situation the appellant has already informed the competent authority in written. (Copy of letter is attached as Annexure "M").
- h) That on account of performing services in District Torghar which is hardest District of the Province it was promised/assured by the competent authority to transfer the appellant in the District of appellant's choice, but the said promise is still awaited. (Copy of Minutes regarding the said assurance is attached as Annexure "N").
- i) That the RITE Mansehra where the appellant has been transferred, there is no student is studying and on the other hand no one has been posted against the post of appellant as DEO(F), Abbottabad, respondent No. 5 has assigned the additional charge of the post of the present appellant, which clearly proves victimization.
- j) That it is well settled by now that Article 199 casts an obligation on the High Court to

CTC  
  
Muhammad Arshad Khan Tangi  
Advocate High Court  
Office No. 33 Adjacent to  
Dist. Court Abbottabad

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act in Aid of law, protect the rights of the citizens within frame work of the Constitution against infringement of law and constitution by the executive authorities, strike a rational compromise and fair balance between the rights of the citizens and action of the state functionaries, claimed to be larger interest of the society. A power is conferred on the High Court under the constitution and is to be exercised subject to constitutional controlled executive action so as to bring it in conformity with the law. Whenever, the executive acts in violation of the law an appropriate order can be granted, which will relieve the citizen of effects of illegal action. It is an omnibus article under which relief can be granted to the citizen of the country against infringement of any provision of law or of the constitution. If the citizen of this country are deprived of the guarantee given to them under the constitution, illegally or, not accordance with law then Article 199 can always be invoked for redress.

CTC  
  
Muhammad Arshad Khan Tan...  
Advocate High Court  
Office No: 33 Adjacent to  
Abbottabad

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR  
AT CAMP COURT ABBOTTABAD.

Service Appeal No. 1294/2018

Date of Institution ... 10.10.2018

Date of Decision ... 20.02.2019

Faiza Shafi, District Education Officer (Female), District Abbottabad.

... (Appellant)

VERSUS

Govt: of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa  
Peshawar and five others. ... (Respondents)

-----  
MR. MUHAMMAD ARSHAD KAHN TANOLI,  
Advocate

--- For appellant.

MR. MUHAMMAD BILAL,  
Deputy District Attorney

--- For respondents

MR. AHMAD HASSAN,  
MR. MUHAMMAD AMIN KHAN KUNDI

--- MEMBER(Executive)  
--- MEMBER(Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER:- Arguments of the learned counsel for the parties heard and record perused.

ARGUMENTS

2. Learned counsel for the appellant argued that she is an Officer of BPS-19 and presently posted as DEO (F) Abbottabad since October, 2016. Prior to that appellant was transferred from one station to another within a short span of time. On 01.08.2018 Special Secretary, Elementary and Secondary Education Department, Khyber Pakhtunkhwa directed the appellant to issue transfer order of Miss. Aisha Jehanzeb, GGPS Lari banota to Abbottabad before closing office hours. Due to genuine administrative considerations, she did not comply with the orders and informed that concerned in writing. Resultantly, vide impugned order dated 31.07.2018 she was

transferred from Abbottabad to Mansehra. She preferred departmental appeal on 07.08.2018 which was rejected on 08.10.2018. She moved Peshawar High Court Abbottabad Bench through writ petition no. 900-A/2018. Peshawar High Court, Abbottabad bench vide judgment dated 05.09.2018 converted the writ petition into representation/appeal with directions to the Chief Secretary, Khyber Pakhtunkhwa for disposal within a period of thirty days. Order issued by the respondents is a true depiction of revenge and mal intent. Instead of posting an officer on regular basis as DEO (F) additional charge has been assigned to the DDO (F).

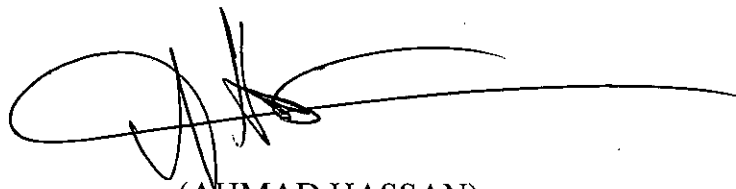
3. Learned Deputy District Attorney argued that post of DEO (F) belongs to the Management Cadre, while the appellant hails from teaching cadre and is not eligible to be posted as DEO. She was posted to RITE against a post meant for teaching cadre. She has completed normal tenure at the place of his previous posting (DEO (F) Abbottabad). Every civil servant is liable to serve anywhere in the province under Section-10 of the Civil Servant Act 1973. A government servant cannot get a posting of his/her choice. He further clarified that a meeting of placement committee was held on 27.02.2018, wherein it was recorded that the appellant be transferred as Instructor RITE (F) Mansehra being of teaching cadre. After getting approval from the Chief Minister, Khyber Pakhtunkhwa posting/transfer was notified. As general ban on postings/transfers was imposed by the Election Commission of Pakistan, therefore her posting was notified after lifting of the ban on 31.07.2018. The charge leveled by the appellant that her transfer resulted due to refusal of posting/transfer of a PST, as ordered by the Special Secretary E&SE Department does not hold water.

**CONCLUSION.**

4. A meeting of the placement committee was held on 27.02.2018, wherein it was decided that the appellant be posted as Instructor RITE (F) Mansehra. Thereafter the case was processed and approval of the Chief Minister, Khyber Pakhtunkhwa was obtained through a summary moved by the Elementary and Secondary Department. It is further clarified and is quite evident from the summary referred to above that notification of posting/transfer was held up due to general ban imposed by the Election Commission of Pakistan on the eve of General Elections. After lifting general ban on postings/transfers, the appellant was posted as Instructor RITE (F) Abbottabad vide notification dated 31.07.2018.

5. As the appellant belongs to the teaching cadre, so she should not have been posted as DEO(F) Abbottabad, which is earmarked for the officers of Management Cadre. It is presumed her posting as DEO (F) was ordered in the exigency of service. However, she cannot lay claim against a post for which she is not eligible. The appellant has already completed normal tenure at the place of her previous posting. Having gone through the entire record the charge of non compliance orders of Special Secretary E&SE Department which resulted in her transfer remained un-substantiated.

6. As a sequel to above, the appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.



(AHMAD HASSAN)  
Member  
Camp Court Abbottabad.

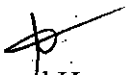



(MUHAMMAD AMIN KHAN KUNDI)  
Member

ANNOUNCED  
20.02.2019

19.02.2019

Clerk to counsel for the appellant present. Mr. Muhammad Bilal, DDA for the respondents present. Clerk to counsel for the appellant seeks adjournment as counsel for the appellant was busy before the Hon'able Peshawar High Court, Abbottabad Bench. Adjourned. Case to come up for arguments on 20.02.2019 before D.B at camp court Abbottabad.

  
(Ahmad Hassan)  
Member


  
(M. Amin Khan Kundi)  
Member  
Camp Court Abbottabad

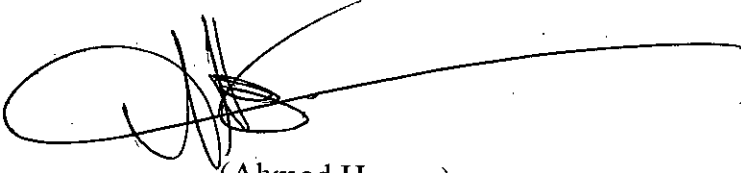
**ORDER**

20.02.2019

Counsel for the appellant present. Mr. Muhammad Bilal, Deputy District Attorney for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today placed on file, the appeal is dismissed. In the circumstances, parties are left to bear their own costs. File be consigned to the record room.

  
(M. Amin Khan Kundi)  
Member

  
(Ahmad Hassan)  
Member  
Camp Court Abbottabad

**ANNOUNCED**

20.02.2019

12.11.2018

. Due to retirement of the Hon'ble Chairman the Service Tribunal is incomplete. Tour to Camp Court Abbottabad has been cancelled. To come up for the same on 18.12.2018 at camp court Abbottabad.



18.12.2018

Counsel for the appellant and Mr. Khalid Muteen SO and Muhammad Nawaz, Senior Clerk alongwith Mr. Usman Ghani, District Attorney for the respondents present. Written reply submitted. To come up for rejoinder and arguments on 16.01.2019 before D.B at camp court, Abbottabad. The restraint order shall continue till the date fixed.



Member  
Camp court A/Abad

16.01.2019

Learned counsel for the appellant present, stated that the respondents No.5 & 6 have not submitted their comments. Learned counsel for the appellant seeks adjournment. Mr. Muhammad Bilal learned Deputy District Attorney present. Mr. Abdul Akram Deputy Secretary Education present and showed his reservation in case adjournment is granted, on the plea that the appellant has resorted to frivolous litigation.

In the present service appeal posting transfer order has been made impugned as such the respondent No.5 & 6 i.e. District Accounts Officer Abbottabad and District Accounts Officer Mansehra are not found necessary parties to the present service appeal. Since the matter in issue is posting transfer order, last opportunity is granted to the learned counsel for the appellant. Adjourn. To come up for arguments on 19.02.2019 before D.B at Camp Court Abbottabad.



Member



Member

Camp Court Abbottabad



19.10.2018

Appellant Miss Faiza Shafi in person alongwith her counsel Mr. Muhammad Arshad Khan Tanoli, Advocate present. Mr. Khalid Mateen, Section Officer for respondents No. 1 to 3 alongwith Mr. Usman Ghani, District Attorney for the respondents present. Comments/reply not submitted by the respondents.

Arguments on the application of the appellant for suspension of impugned notification dated 31.07.2018 passed by respondent No. 2 heard and available record perused.

Mr. Muhammad Arshad Khan Tanoli, Advocate, counsel for the appellant contended that respondents have transferred the appellant from the post of DEO (Female) Abbottabad to RITE (F) Mansehra under political influence as she did not obey the illegal order for the transfer of a school teacher. Further contended that respondent No. 2 compelled the appellant to relinquish the charge and assume the same at new place of posting and she under compulsion, without relinquishing the charge of the DEO(F) post, she assumed the charge at new place of posting. Further contended that the appellant has not completed her normal tenure which is clear violation of posting/transfer policy of the Provincial Government. At the end, he requested the Tribunal to suspend the operation of the impugned notification.

Learned District Attorney assisted by the above named representative of the respondents, they both contended that the appellant was transferred as a routine and thereafter she not only assumed the charge at new place of posting but even her salary has been started against that post. They requested that the application of the appellant for suspension of impugned order, may be rejected.

Keeping in view the prayer of the appellant wherein her main contention is to set aside the impugned notification, this Tribunal deemed it proper to confine its findings relevant for the disposal of the present suspension application.

From perusal of the record attached with the appeal in hand by the appellant, it appears that the Special Secretary,


EW  
19.10.2018  
[Signature]

20/12  
19.10.18  
C 4/4

E&SE Khyber Pakhtunkhwa Peshawar directed the appellant to transfer one teacher namely Miss Aisha Jehanzaib from U/C Pattan Kalan to Abbottabad before closing hours under intimation of compliance report to the Secretary i.e. respondent No. 2. However, she did not comply the said directions as the above named teacher was single teacher in the said school and in case of her transfer, the education of children would have been suffered as no substitute was provided in her place. Again respondent No. 2 directed the Deputy DEO (F) to take over the charge of the post of DEO (F) Abbottabad and appellant was directed to assume the charge at her new place of posting where she was posted against a vacant seat at Mansehra. Apart from this, in the order dated 05.09.2018, passed by the Hon'ble High in a Writ Petition No. 900-A/2018 filed by the appellant, observed that the impugned notification was back dated which was clear political interference in posting/transfer of the present appellant. Similarly if the conditions of posting/transfer policy framed by the Provincial Government are looked into, a period has been fixed with the main purpose to protect a civil servant from political victimization.

So far assumption of charge by the appellant is concerned, no doubt, she has assumed the charge at new place of posting but from the letter issued by respondent No. 2 it is clear that directions were given to Deputy DEO (F) Abbottabad to hand over the charge of the post with further direction to the appellant to assume the charge at RITE, Mansehra which clearly manifests that the appellant did not relinquish her charge rather assumed the same under compulsion.. Here it may be observed that in such like cases, this Tribunal never interfered when a civil servant assumed the charge at new place posting but here the case of the appellant is different as it seems to be based on malafide and politically motivated one and the same is also against the posting/transfer policy as framed by the Provincial Government.

In short, as already observed, for the reasons stated above and above all in the presence of worthy observations of the Hon-ble High Court if the operation of the impugned notification is not suspended, then it will amount to defeat the justice on technical ground. As such in administration of justice coupled with the Worthy observations of the Hon'ble High Court, the operation of the impugned notification dated 31.07.2018 is suspended till next date. Case to come up for written reply on 12.11.2018 before S.B at camp court, Abbottabad.

  
Chairman  
Camp Court, A/Abad

EW  
19.10.2018

12.10.2018

Miss Faiza<sup>shafi</sup> appellant in person alongwith her counsel Mr. Muhammad Arshad Tanoli, Advocate present and heard in limine.

Contends that the appellant has been transferred for non-compliance of an illegal order which was based on malafide intentions. Besides, as per posting/transfer policy, the tenure was also not matured.

Points raised need consideration. The appeal is admitted to full hearing, subject to all legal objections. 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 18.10.2018 before S.B at camp court, Abbottabad as the same pertains to territorial limits of Hazara Division. So far the application for stay is concerned, notice of the same be given to the respondents for the date fixed. However, in the meanwhile status quo shall be maintained.

Appellant Deposited  
Security & Process Fee

  
Chairman

18.10.2018

Appellant with counsel present. Mr. Khalid Mateen, Section Officer and Shujaa Ali, ADO alongwith Mr. Usman Ghani, District Attorney for the respondents present. Learned counsel for the appellant submitted another application for suspension of the impugned order which is placed on record. Representative of the department also produced charge assumption report of the appellant dated 15.09.2018, copy of the same is also placed on file. Learned counsel for the appellant requested for adjournment for tomorrow. Adjourned. To come up for written reply/comments on main appeal as well as reply/arguments on stay application 19.10.2018 before S.B at camp court, Abbottabad. In the meanwhile status quo be maintained till the date fixed.

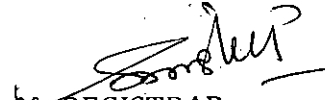
  
Member

Camp Court, A/Abad

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 1294/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	10/10/2018	<p>The appeal of Mst. Faiza Shafi presented today by Mr. Muhammad Arshad Khan Tanoli Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	12-10-2018	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>12-10-2018</u>.</p> <p style="text-align: right;">CHAIRMAN</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR**

Service Appeal No. 1294-2018

Faiza Shafi District Education Officer (Female), District Abbottabad.

...APPELLANT

**VERSUS**

Govt. of Khyber Pakhtunkhwa, through Chief Secretary, Peshawar and others.

...RESPONDENTS

**SERVICE APPEAL**

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6.	Copy of Notification	20	"D"
7.	Copy of Notification dated 22/06/2016	21	"E"
8.	Copy of order dated 01/08/2018	22	"F"
9.	Copy of letter dated 01/08/2018	23	"G"
10.	Copy of order dated 31/07/2018	24	"H"
11.	Copy of departmental appeal dated 07/08/2018	25-29	"I"
12.	Copy of rejection order dated 08/10/2018	30	"J"
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14.	Copy of the said Regulatory Act, 2011	48-49	"L"
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17.	<del>Copy of order dated 01/08/2018</del>		
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...APPELLANT

Through

Dated: 10/10 /2018

(Muhammad Arshad Khan Tanoli)  
Advocate High Court, Abbottabad

Muhammad Arshad Khan Tanoli  
Advocate High Court  
Office No 33 Adjacent to  
Distt Bar Abbottabad

1

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE**  
**TRIBUNAL PESHAWAR**

Service Appeal No. 1294 - ~~10~~2018

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 1518

Dated 10-10-2018

Faiza Shafi District Education Officer (Female), District Abbottabad.

...APPELLANT

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Chief Secretary, Peshawar.
2. Secretary Elementary & Secondary Education Department, Peshawar.
3. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
4. Principal RITE (Female) Mansehra.
5. District Accounts Officer, Abbottabad.
6. District Accounts Officer, Mansehra

...RESPONDENTS

Filed to Day  
10/10/18  
Registrar

**SERVICE APPEAL** UNDER SECTION 4 OF  
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
ACT, 1974 SEEKING DECLARATION/ DIRECTION  
TO THE EFFECT THAT THE APPELLANT HAS  
BEEN TRANSFERRED FROM THE POST OF

DISTRICT EDUCATION OFFICER (F)  
ABBOTTABAD AND POSTED AS INSTRUCTOR  
(BS-19) RITE (FEMALE) MANSEHRA VIDE  
NOTIFICATION DATED 31/07/2018, WHICH IS  
ILLEGAL, UNLAWFUL, WITHOUT LAWFUL  
AUTHORITY, ARBITRARY, PERVERSE,  
DISCRIMINATORY, MALAFIDE AND  
CONSEQUENTLY OF NO LEGAL EFFECT UPON  
THE RIGHTS OF APPELLANT.

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**PRAYER:** ON ACCEPTANCE OF THE INSTANT  
APPEAL, THE IMPUGNED NOTIFICATION DATED  
31/07/2018 ISSUED BY RESPONDENT NO. 2 MAY  
KINDLY BE SET-ASIDE AND RESPONDENTS BE  
GRACIOUSLY DIRECTED NOT TO COMPEL THE  
APPELLANT TO RELINQUISH THE CHARGE OF  
THE POST FROM DISTRICT EDUCATION OFFICER  
(FEMALE) ABBOTTABAD. ANY OTHER RELIEF  
DEEMED FIT AND PROPER IN THE  
CIRCUMSTANCES OF THE CASE.

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*Respectfully Sheweth;-*



The facts giving rise to the instant appeal are arrayed as under:-

1. That the appellant is presently working as District Education Officer (Female) BPS-19, Abbottabad, since October, 2016. (Copy of order is attached as Annexure "A").
2. That the appellant was transferred from GGCMHS, Haripur to DEO (Female) Torghar, vide Notification No. SO(S/F)E&SE/4-16/2013/Faiza Shafi DEO(Female) dated 25/04/2014. (Copy of Notification is attached as Annexure "B").
3. That once again the appellant was transferred from Torghar to DEO (Female), Mansehra vide Notification dated 14/09/2015. (Copy of Notification dated 14/09/2015 is attached as Annexure "C").
4. That after the short span of time again the appellant was transferred from Mansehra and the services of the appellant were placed at the

disposal of the Director (E&SE) KPK, Peshawar vide Notification No. SO(S/F) E&SE/4-16/DEO(F) dated 05/04/2016. (Copy of Notification is attached as Annexure "D").

5. That the appellant was once again transferred to District Torghar as DEO(F) vide Notification dated 22/06/2016. (Copy of Notification dated 22/06/2016 is attached as Annexure "E").
6. That after only three months the appellant was once again transferred to Abbottabad as DEO(F) vide order dated 26/09/2016. (Copy of order dated 26/09/2016 already attached as Annexure "A").
7. That on 01/08/2018 the Special Secretary (E&SE) Department Peshawar, directed the appellant to issue the transfer order of Miss. Ayesha Jehanzeb GGPS Lari Banota PST (BPS-12) U/C Pattan Kalan to Abbottabad, before closing hours under intimation to Secretary (E&SE) KPK, Peshawar. (Copy of order dated 01/08/2018 is attached as Annexure "F").

8. That after thorough checking of the transfer case it was submitted to the concern authority that GGPS Lari is a single teacher school and on account of the said transfer the school will be closed/ non functional, so the appellant was not in a position to comply the illegal and unlawful order. (Copy of letter dated 01/08/2018 is attached as Annexure "G").
9. That on account of non-compliance of above referred unlawful and illegal order dated 01/08/2018 the appellant was once again transferred from Abbottabad to RITE Mansehra vide order dated 31/07/2018. (Copy of order dated 31/07/2018 is attached as Annexure "H")
10. That the appellant filed departmental appeal against the impugned transfer order dated 31/07/2018 which was issued back dated, vide departmental appeal dated 07/08/2018 which has been rejected without following the direction dated 05/09/2018 of Honourable High Court Bench Abbottabad in Writ Petition No. 900-A/2018. Copy of departmental appeal dated 07/08/2018, rejection order dated 08/10/2018 and judgment

dated 05/09/2018 of Honourable High Court, Abbottabad Bench in W.P No. 900-A/2018 are attached as Annexure "I", "J" & "K".

11. That feeling aggrieved, the appellant assails the impugned order dated 31/07/2018 being illegal, unlawful, against the law, inter-alia, on the following amongst many other; -

**GROUND S;-**

- a) That, the impugned order/Notification dated 31/07/2018 as has been issued by the respondent No.1 is illegal, unlawful, without lawful authority, arbitrary, perverse, discriminatory, malafide and consequently of no legal effects upon the rights of appellant.
- b) That the appellant has served with best of her ability for the entire satisfaction of her superiors.

- c) That it is pertinent to mention here that the order dated 31/07/2018 has been issued on 02/08/2018 with malafide intention just to conceal the facts of the case.
- d) That the desired transfer order of the aforesaid PST Teacher was clear cut violation of the Transfer Posting Regulatory Act, 2011. (Copy of the said Regulatory Act, 2011 is attached as Annexure "L")
- e) That due to frequent transfers of the appellant during the session, the education/ study of the appellant's two minor daughters studying in Class 2<sup>nd</sup> and 6<sup>th</sup> is being affected badly.
- f) That on account of aforesaid political and administrative based frequent transfers the appellant and the family/ children of the appellant have been very badly tortured which resultantly affected the health of the appellant and the family matters as well.

- g) That regarding the above said situation the appellant has already informed the competent authority in written. (Copy of letter is attached as Annexure "M").
- h) That on account of performing services in District Torghar which is hardest District of the Province it was promised/assured by the competent authority to transfer the appellant in the District of appellant's choice, but the said promise is still awaited. (Copy of Minutes regarding the said assurance is attached as Annexure "N").
- i) That the RITE Mansehra where the appellant has been transferred, there is no student is studying and on the other hand no one has been posted against the post of appellant as DEO(F), Abbottabad, respondent No. 5 has assigned the additional charge of the post of the present appellant, which clearly proves victimization.
- j) That it is well settled by now that Article 199 casts an obligation on the High Court to

act in Aid of law, protect the rights of the citizens within frame work of the Constitution against infringement of law and constitution by the executive authorities, strike a rational compromise and fair balance between the rights of the citizens and action of the state functionaries, claimed to be larger interest of the society. A power is conferred on the High Court under the constitution and is to be exercised subject to constitutional controlled executive action so as to bring it in conformity with the law. Whenever, the executive acts in violation of the law an appropriate order can be granted, which will relieve the citizen of effects of illegal action. It is an omnibus article under which relief can be granted to the citizen of the country against infringement of any provision of law or of the constitution. If the citizen of this country are deprived of the guarantee given to them under the constitution, illegally or, not accordance with law then Article 199 can always be invoked for redress.

- k) That even otherwise, there was no lawful justification with the respondent No.1 to transfer the appellant. Even if the respondents were desirous to facilitate any person of their choice, she could have been adjusted in some other Station. This act of the respondents depicts malafide on their part. Hence, the impugned notification is liable to be set-aside.
- l) That the impugned transfer order of the appellant has been issued on expired summary which was routed by the previous Govt. which is illegal, unlawful and result of malafide intention, hence, not sustainable in the eyes of law.
- m) That, the respondent No.2 transferred/posted the appellant without mentioning any reasons, under political pressure, ignoring all the rules and regulations on the subject, only to accommodate their well wisher(s) and blue eyed, which is not only against the law/ rules on the subject but is in violation of Article 4, 8 and 25 of the constitution *ibid.*



- n) That the respondents have not treated the appellant in accordance with law, rules and policy on the subject and acted in violation of Article-4 of the Constitution of Islamic Republic of Pakistan 1973 and unlawfully refused to promote the appellant which is unjust, unfair, illegal, hence not sustainable in the eye of law.
- o) That under Section 24-A of General Clauses Act, 1897, where any authority is vested with the power to make any order, such power shall be exercised reasonably, fairly, justly and for the advancement of the purposes of the enactment under which the power is conferred but in the case in hand the power was not exercised as such, rather, the same was misused arbitrarily to the detriment of appellant without any rhyme or reason, therefore, the impugned act of respondents is not legally maintainable.
- p) That it is inalienable right of every citizen to be treated in accordance with law and especially when placed in similar position

with the other persons, thus, the impugned act being nullity in the eye of law is liable to be struck down.

q) That the impugned notification if seen from any angle, both factually and legally is not maintainable, hence, liable to be set-aside.

r) That as the appellant has illegally been transferred due to non compliance of illegal orders of the higher authorities, the appellant filed writ petition No. 900-A/2018 before Honourable Peshawar High Court, Abbottabad Bench which was disposed of with the directions that; "Since the matter pertains to posting and transfer of the civil servant, therefore, the jurisdiction of this Honourable Court to interfere in the same is barred under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973. however, the allegations made in this petition is a big question on the tall claims of Government of Khyber Pakhtunkhwa i.e non-interference of politician in posting and transfer of civil servant. Therefore, we treat this writ petition as representation /appeal

and send it to the worthy Chief Secretary Khyber Pakhtunkhwa, who shall decide the same after giving full opportunity of hearing to the petitioner within a period of 30 days from the date of receipt of this order”.

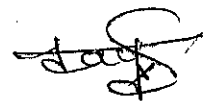
- s) That inspite of clear-cut instructions from Honourable Peshawar High Court Abbottabad Bench the Chief Secretary Khyber Pakhtunkhwa did not provide opportunity of personal hearing to the appellant and finally respondent No.2 regretted the departmental appeal which is against the direction dated 05/09/2018 of Honourable Peshawar High Court.
- t) That the addresses of the parties are correctly mentioned in heading of appeal.
- u) That the other grounds shall be urged at the time of arguments with the leave of this Honourable Court.

Under the circumstances it is respectfully prayed that on acceptance of the instant appeal, the impugned Notification dated 31/07/2018 issued by respondent

No. 2 may kindly be set-aside and respondents be graciously directed not to compel the appellant to relinquish the charge of the post from District Education Officer (Female) Abbottabad. Any other relief deemed fit and proper in the circumstances of the case.

**INTERIM RELIEF:**

That the appellant has brought a good prima facie case and balance of convenience also lies in favour of the appellant. It is obvious from the record that the appellant did not comply with illegal order of the higher authorities. It is therefore, prayed that on acceptance of interim relief, operation of impugned order/Notification dated 31/07/2018 may kindly be suspended and status quo may graciously be ordered to be maintained till final disposal of the titled appeal.



...APPELLANT

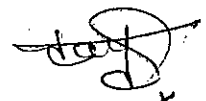
Through

Dated: 10/10 /2018

(Muhammad Arshad Khan Tanoli)  
 Advocate High Court, Abbottabad  
 Office No 33 Adjacent to  
 Dist. Bar Abbottabad

**VERIFICATION:-**

*Verified on oath that the contents of foregoing writ petition are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court*



...APPELLANT

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE**  
**TRIBUNAL PESHAWAR**

Service Appeal No. \_\_\_\_\_-A/2018

Faiza Shafi District Education Officer (Female), District Abbottabad.

**...APPELLANT**

**VERSUS**

Govt. of Khyber Pakhtunkhwa, through Chief Secretary, Peshawar and others.

**...RESPONDENTS**

**WRIT PETITION**

**AFFIDAVIT**

I, Faiza Shafi District Education Officer (Female), District Abbottabad, do hereby affirm and declare that the contents of foregoing service appeal are true and correct and nothing has been concealed therein from this Honourable Court.



**DEPONENT**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR**

Service Appeal No. \_\_\_\_\_-A/2018

Faiza Shafi District Education Officer (Female), District Abbottabad.

...APPELLANT

**VERSUS**

Govt. of Khyber Pakhtunkhwa, through Chief Secretary, Peshawar and others.

...RESPONDENTS

**SERVICE APPEAL**

**ADDRESSES OF THE PARTIES**

Respectfully Sheweth:-

Addresses of the parties are as under:-

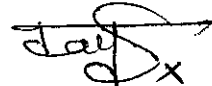
Faiza Shafi District Education Officer (Female), District Abbottabad.

...APPELLANT

**VERSUS**

1. Govt. of Khyber Pakhtunkhwa, through Chief Secretary, Peshawar.
2. Secretary Elementary & Secondary Education Department, Peshawar.
3. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
4. Principal RITE (Female) Mansehra.
5. District Accounts Officer, Abbottabad.
6. District Accounts Officer, Mansehra

...RESPONDENTS



...APPELLANT

Dated: 10/10 /2018

Through

  
(~~Muhammad Arshad Khan Tanoli~~)  
Advocate High Court, Abbottabad

Muhammad Arshad Khan Tanoli  
Advocate High Court  
Office No 33 Adjacent to  
Distt Bar Abbottabad



**Annex "A"**  
GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION  
DEPARTMENT

17

Dated Peshawar the September 26, 2016

**NOTIFICATION**

**NO.SO(S/M)E&SED/2-1/2016/Posting/Transfer of DEOs (M), (BS-19):** The Competent Authority is pleased to transfer/adjust the following District Education Officers (BS-19) (Male & Female), Additional Directors/Principals and post them on the position/stations as noted against each in the interest of public service with immediate effect:-

S.#	NAME AND DESIGNATION WITH PRESENT PLACE OF POSTING	PLACE OF POSTING	REMARKS
1.	Mr. Farid Khan Khattak, Principal B-19 GHS Surizai Bala Peshawar (Teaching Cadre)	Additional Director (P&D) BS-19 at Directorate of E&SE	Against Vacant Post
2.	Mr. Abdul Wali Khan, Deputy Director (P&D) BS-18 Directorate E&SE (Teaching Cadre)	Additional Director-II BS-19 at Directorate of E&SE in his own pay & scale	-do-
3	Mr. Siraj Muhammad DEO Male BS-19 Mardan (Management Cadre)	DEO Male BS-19 Charsadda	-do-
4	Mr. Zia-ud-Din DEO Male BS-19 Abbottabad (Management Cadre)	DEO Male BS-19 Mardan	Vice Sr. No.3
5	Qazi Tajamul Hussain Principal BS-18 GHS Hattar Haripur (Teaching Cadre)	DEO Male BS-19 Abbottabad in his own pay and scale.	Vice Sr. No.4
6	Mr. Zafar Arbab Abasi DEO Male BS-19 Haripur (Teaching Cadre)	DEO Male BS-19 Mansehra.	Vice Sr. No.7
7	Mr. Nisar Muhammad DEO Male BS-19 Mansehra (Teaching Cadre)	DEO Male BS-19 Shangla.	Vice Sr. No.16
8	Mr. Abdul Salam DEO Male BS-19 awaiting posting (Management Cadre)	DEO Male BS-19 Haripur	Vice Sr. No.6
9	Hafiz Muhammad Ibrahim DEO Male BS-19 Swat (Management Cadre)	DEO Male BS-19 Dir Lower	Vice Sr. No.10
10	Mr. Muhammad Uzair Ali DEO Male BS-19 Dir Lower (M.C).	DEO Male BS-19 Malakand	Vice Sr. No.11
11	Mr. Manzar Jan DEO Male BS-19 Malakand (Teaching Cadre)	Principal BS-19 GHSS Rustam Mardan	Against Vacant Post
12	Mr. Abdur Rashid Baloch Principal BS-19 GHSS No.4 D.I.Khan (Management Cadre)	DEO Male BS-19 Tank	Against Vacant Post
13	Mr. Taus Khan Principal BS-19 GHSS No.5, D.I.Khan (T.C).	DEO Male BS-19 Karak	Against Vacant Post
14	Mr. Khan Muhammad BS-19 DEO(F) Kohistan	DEO Male BS-19 Torghar	Against Vacant Post
15	Mr. Riasat Khan BS-19 DEO Male Kohistan	Principal BS-19 GHSS Turbela Township Haripur	Against Vacant Post
16	Mr. Saeed Khan, BS-19 DEO Male Shangla	Principal BS-19 GHSS Mian Brangola Dir Lower	Against Vacant Post
17	Mr. Fida Muhammad BS-19 Principal GCMHS Battgram	DEO Male BS-19 Kohistan	Vice Sr. No.15
18	Muhammad Amin Principal BS-19 GHSS Amankot Swat	DEO Male BS-19 Swat	Vice Sr. No.09
19	Samina Altaf DEO Female BS-19 Abbottabad (Management Cadre)	Principal BS-19 GGHS No.1, Abbottabad	Against Vacant Post
20	Faiza Shafi BS-19 DEO Female Torghar	DEO Female BS-19 Abbottabad	Vice sr. No.19

*Muhammad Usman Khan Torchi*  
Advocate High Court  
Office No 33 Adjacent to  
Distt Bar Abbottabad

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SECRETARY

Endst: of Even No. & Date:

Copy forwarded to the: -

- 1- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2- PSO to Chief Minister, Khyber Pakhtunkhwa.
- 3- Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- 4- District Education Officers (Male), concerned.
- 5- District Accounts Officer, concerned.
- 6- Section Officer (Female), E&SE Department, Khyber Pakhtunkhwa.
- 7- PS to Minister for, E&SE Department, Khyber Pakhtunkhwa.
- 8- PS to Secretary, E&SE Department, Khyber Pakhtunkhwa
- 9- Incharge EMISE E&SE Department, , Khyber Pakhtunkhwa
- 10- Officer Concerned.
- 11- Office order file.

Note: Notification can be downloaded from our website: [www.pkese.gov.pk](http://www.pkese.gov.pk)

Handwritten signature of Mujeeb-ur-Rehman.

26/9/16

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

Handwritten signature and stamp area.

CTC

Muhammad Anwar Khan Tanoli  
 Director High Court  
 Office No 23 Adjacent to  
 High Court Abbottabad

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18

Annex "B"

23/04/2014 14:47 FAX 0011210382

SSP, Peshawar

001



GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION  
DEPARTMENT

Dated Peshawar April 25<sup>th</sup>, 2014

NOTIFICATION

NO.SO(S/F)E&SE/4-16/2013/Faiza Shafi DEO (F): Ms. Faiza Shafi Principal (BS-19)  
GGCMHS No.1 Haripur (Teaching Cadre) is hereby transferred and posted as DEO (F) (BS-19)  
Torghar against the vacant post in the interest of public service with immediate effect.

2. No TA / DA allowed.

SECRETARY

Endst. of even No & date

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director, E&SE, Peshawar.
3. District Education Officer (M) Torghar.
4. District Education Officer (F) Haripur & Torghar.
5. District Accounts Officer Manselra.
6. Incharge EMIS, E&SE Department.
7. PS to Minister E&SE Khyber Pakhtunkhwa, Peshawar.
8. PS to Secretary E&SE Department.
9. Officer concerned.
10. Office order file.

CTC

Muhammad Arshad Khan Janoli  
Advocate High Court  
Office No 33 Adjacent to  
Distt Bar Abbottabad

FOZIA NAZ  
SECTION OFFICER (S/F)

Attention :- Principal, GGCMHS  
No.1 Haripur  
(Use only)



GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION  
DEPARTMENT

Annex 'c' 29

Dated Peshawar the September 14, 2015.

NOTIFICATION

NO.SO(S/F)E&SE/4-16/2015/DDEO's (F): The following postings / transfers of the officers from Management / Teaching Cadre are hereby ordered against the Management posts of District Education Officer (s) / Deputy District Education Officer (s) (Female) of Elementary & Secondary Education Department in the interest of public service with immediate effect:-

Sr.	Name of Officer with Designation	Proposed place of posting	Remarks
1	Ms. Robina Qureshi DEO (BS-19) Nowshera (Teaching Cadre)	Principal (BS-19) GGHSS No.1, Nowshera Kalan	A.V.P
2	Ms. Rabia Anees DDEO (F) (BS-18) Buner (Management Cadre)	DDEO (BS-18) Nowshera with additional charge of DEO (F)	Vice Sr.No.1
3	Ms. Dilshad Begum DDEO (F) (BS-18) Mardan (Management Cadre)	DDEO (BS-18) Malakand with additional charge of DEO (F)	A.V.P
4	Ms. Samina Ghani DDEO (F) (BS-18) Peshawar (Management Cadre)	DDEO (BS-18) Mardan with additional charge of DEO (F)	Vice Sr.No.3
5	Ms. Faiza Shafi DEO (F) (BS-19) Tor Ghar (Teaching Cadre)	DEO (F) (BS-19) Mansehra	Vice Sr.No.6
6	Ms. Naghmana Sardar DDEO (F) (BS-18) Mansehra (Management Cadre)	DDEO (F) (BS-18) Swabi with additional charge of DEO (F)	Vice Sr.No.7
7	Ms. Ulfat Begum DDEO (F) (BS-18) Swabi (Management Cadre)	DDEO (F) (BS-18) Peshawar with additional charge of DEO (F)	Vice Sr.No.4
8	Ms. Abida Parveen DDEO (F) (BS-18) Abbottabad (Management Cadre)	DDEO (F) (BS-18) Battagram with additional charge of DEO (F)	Vice Sr.No.9
9	Ms. Rehana Yasmin DDEO (F) (BS-18) Battagram (Management Cadre)	DDEO (F) (BS-18) Abbottabad	Vice Sr.No.8
10	Ms. Bibi Razia DDEO (F) (BS-18) Lakki Marwat (Management Cadre)	DDEO (F) (BS-18) Bannu with additional charge of DEO (F)	A.V.P
11	Ms. Zubaida Haneef DDEO (F) (BS-18) Kohistan (Management Cadre)	DDEO (F) (BS-18) Lakki Marwat with additional charge of DEO (F)	Vice Sr.No.10

CTC

Muhammad Aslam Khan Tanoli  
Advocate High Court  
Office No 33 Adjacent to  
Distt Bar Abbottabad

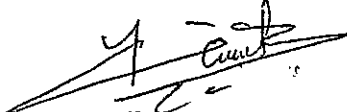
2. No TA / DA allowed.

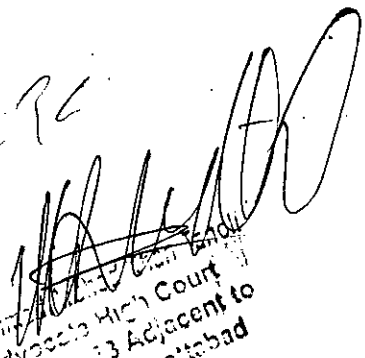
SECRETARY

Endst. of even No. & date

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director, E&SE, Peshawar.
3. District Education Officer (F) Concerned.
4. District Accounts Officers Concerned.
5. Incharge EMIS, E&SE Department.
6. PS to Chief Minister Khyber Pakhtunkhwa.
7. PS to Chief Secretary Khyber Pakhtunkhwa.
8. PS to Minister E&SE Khyber Pakhtunkhwa.
9. P.S to Secretary E&SE Department.
10. Officer concerned.
11. Office order file.

  
(FOZIA NAZ)  
SECTION OFFICER (S/F)

CPC  
  
Muzammil Ahmad  
Advocate High Court  
Office No 33 Adjacent to  
Dist. Tr. Abbottabad

Annex "D" (20)



GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION  
DEPARTMENT

Dated Peshawar the, April 05, 2016.

NOTIFICATION

NO.SO(S/F)E&SE/4-16/2016/DDEOs (F): The services of Ms. Faiza Shafi BS-19 (Teaching Cadre) DEO (F) Mansehra are hereby placed at the disposal of Directorate Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar with immediate effect in the public interest.

2. The charge of the post of DEO (F) Mansehra is assigned to DEO (M) Mansehra till further orders.

Endst. of even No & date

SECRETARY



Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director, E&SE, Peshawar.
3. District Education Officer (F), Mansehra.
4. District Education Officer (M), Mansehra.
5. District Accounts Officer, Mansehra.
6. Incharge EMIS, E&SE Department.
7. PS to Chief Minister Khyber Pakhtunkhwa.
8. PS to Minsuiter E&SE.
9. PS to Chief Secretary Khyber Pakhtunkhwa.
10. PS to Secretary E&SE Department.
11. Section Officer (School/Male), E&SED.
12. Officer concerned.
13. Office order file.

(LAL SAEED KHATTAK)

SECTION OFFICER (SCHOOL/FEMALE)

Muhammad Asad Khan  
Advocate High Court  
Office No 33 Adjacent to  
Distt Bar Abbottabad

Annex "E"

(21)

ROM : SECRETARY E&SE KPK

FAX NO. : +92 91 9211419

23 Jun. 2016 10:26AM P1



GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION  
DEPARTMENT

Dated Peshawar the June 22<sup>nd</sup>, 2016

NOTIFICATION

NO. SO(S/E&SE/4-16/2016/DEOs(F): Consequent upon the recommendations of Placement Committee and approval of the Competent Authority/ Chief Minister Khyber Pakhtunkhwa, postings/transfers in respect of following Female Officers from Management/ Teaching Cadre in the Elementary & Secondary Education Department are hereby ordered against the Management posts noted against each in the interest of public service with immediate effect:-

S.No.	Name of Officer with Designation	Proposed place of posting	Remarks
1.	Mst. Faiza Shafi, BS-19 (Teaching Cadre) her services placed at the disposal of Directorate of E&SE	DEO (M) BS-19 Torghar	Against vacant post
2.	Mst. Rukhsana Zia, BS-19 (Teaching Cadre) Principal GGHSS Panian Haripur	DEO (F) BS-19 Manshra	Against vacant post

Endst. of even No & date

SECRETARY

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director, E&SE, Peshawar.
3. Director PITE Peshawar.
4. Director DCTE Abbottabad.
5. District Education Officers (F) Torghar & Manshra.
6. District Accounts Officers Torghar & Manshra.
7. In-charge BMIS, E&SE Department.
8. Principal, GGHSS Panian Haripur.

14.06

CTC  
Muhammad Arshad Khan Farooq  
Advocate High Court  
Office No. 22 Adjacent to  
Distt Bar Abbottabad

Annex "F"

22



GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION  
DEPARTMENT

No. SOST/11 & SLD 4-16/2018 Miss. Ayesha Jehanzab Abbottabad  
Dated Peshawar the August 1<sup>st</sup>, 2018

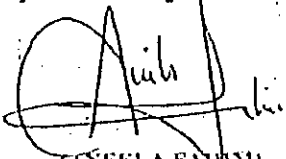
To  
The District Education Officer (Elementary),  
District Abbottabad

**SUBJECT: REQUEST FOR TRANSFER**

I am directed to refer to the subject noted above and to intimate that the Competent Authority has granted sanction/ approval for the transfer of Miss. Ayesha Jehanzab, Primary Teacher (BPS-12) Govt. Girls School Lari UEC Pattan Talan to Abbottabad city or nearby station as desired in the enclosed application.


You are, therefore, directed to issue her transfer order today before closing hours under intimation to this Secretariat.

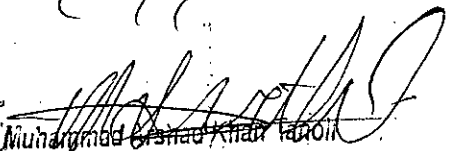
Encl: as above:

  
(ANEELA FARIS)  
SECTION OFFICER (S/F)

Ends: of even No. & Date:

- Copy forwarded to the:
1. Director E&SE Khyber Pakhtunkhwa, Peshawar.
  2. PS to Secretary, E&SE Department.
  3. PS to Special Secretary, E&SE Department.
  4. PA to Additional Secretary, E&SE Department.

  
SECTION OFFICER (S/F)

CTC  
  
Muhammad Asmaul Khair  
Advocate High Court  
Office No. 33 Adjacent to  
Distt Bar Abbottabad

Annex 'G'

23

OFFICE OF THE DISTRICT EDUCATION OFFICER (F) ABBOTTABAD.

No. 3658 / Transfer file.  
Dated 01/08/2018.

Mrs. Ansala Zahra,  
District Officer (Female)  
Plani & Basyi Education Department,  
Government of Khyber Pakhtunkhwa,  
Peshawar.

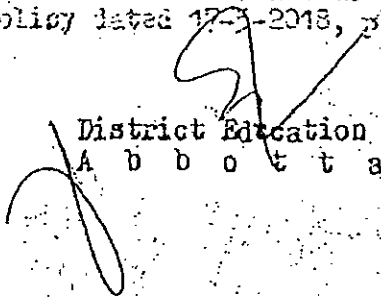
Subject:- REQUEST FOR TRANSFER  
Memo;

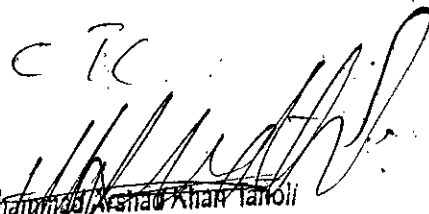
Reference your Letter No. 80(S/O)E&SED-4/16/2018/  
Mrs. Aysha Jahan Zeb PST/Abbottabad dated  
1-8-2018.

Using competent authority, I want to bring into  
your kind notice that GGPS Larri (Boi Circle) is single Teacher  
School, having 35 Students.

It is also worth mentioning here that almost  
every GGPS in Circle Boi is consisted of single teacher. In the  
result of said Transfer, the Fundamental right of the students  
will be violated and school will be declared as Non-Functional.

More over the Transfer of said teacher is also  
violation of the Transfer Policy dated 17-3-2018, please.

  
District Education Officer (F)  
A b b o t t a b a d .

CTC  
  
Muhammad Asghar Khan Tanoli  
Advocate High Court  
Office No 33 Adjacent to  
Distt of Abbottabad

An nex "H"

24

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT  
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar  
Fax # 091-9211419

Dated Peshawar the July 31<sup>st</sup>, 2018



**NOTIFICATION**

- NO. SO(S/F)E&SED/4-16/2018/Mst. Faiza Shafi/BS-19/Abbottabad:** Consequent upon approval of the Competent Authority (i.e. Chief Minister Khyber Pakhtunkhwa) and in pursuance of notification No. F.2(3)/2018-Cord dated 31-07-2018 (lifting of ban), Mst. Faiza Shafi (BS-19) DEO (Female) Abbottabad is hereby transferred and posted as Instructor (BS-19) RITE (Female) Mansehra against vacant post in the interest of public service with immediate effect.
- Consequent upon above, charge of DEO (F) Abbottabad is hereby assigned to DDEO (F) Abbottabad in addition to her own duties with immediate effect till further orders.
  - No TA/DA allowed.

**SECRETARY**

**Endst: of even No. & date:**

Copy forwarded to the:

- Accountant General Khyber Pakhtunkhwa, Peshawar.
- Director E&SE Khyber Pakhtunkhwa, Peshawar.
- Director DCTE, Khyber Pakhtunkhwa, Abbottabad.
- District Education Officer (Female) Abbottabad.
- District Accounts Officers Abbottabad & Mansehra.
- Principal RITE (Female) Mansehra.
- In charge EMIS, E&SE Department for uploading at official website.
- PS to Principal Secretary to Chief Minister, Khyber Pakhtunkhwa, Peshawar.
- PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- PS to Minister E&SE, Khyber Pakhtunkhwa, Peshawar.
- PS to Secretary E&SE Department.
- Instructor concerned.
- Office order file.

Muhammad Arshad Khan Jaffer  
Advocate High Court  
Office No: 33 Adjacent to  
Dist: Bar Abbottabad

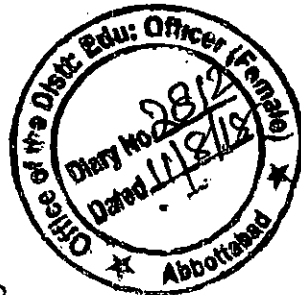
(ANEELA FAHIM)

SECTION OFFICER (SCHOOLS FEMALE)

EB-I (CS)

for do the the  
the need full

11/08/2018





Annex "G"

25

To

The Chief Secretary  
Govt. of Khyber Pakhtunkhwa,  
Peshawar.

Subject: DEPARTMENTAL APPEAL AGAINST THE  
IMPUGNED OFFICE ORDER DATED 31/07/2018

Respected Sir,

The appellant submits as under:-

- ✓ 1. That the appellant is presently working as DEO (Female) BPS-19, Abbottabad, since October, 2016. (Copy of order is attached as Annexure "A").
2. That the appellant was transferred from GGCMHS, Haripur to DEO (Female) Torghar, vide Notification No. SO(S/F)E&SE/4-16/2013/Faiza Shafi DEO(Female) dated 25/04/2014. (Copy of Notification is attached as Annexure "B").
3. That once again the appellant was transferred from Torghar to DEO (Female), Mansehra vide Notification dated 14/09/2015. (Copy of Notification dated 14/09/2015 is attached as Annexure "C").
4. That after the short span of time again the appellant was transferred from Mansehra and the services of the

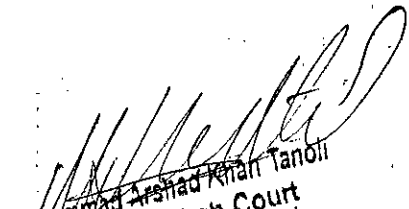
C 70  
Advocate High Court  
Office No 33 Adjacent to  
Distt Bar Abbottabad

26

appellant were placed at the disposal of the Director (E&SE) KPK, Peshawar vide Notification No. SO(S/F) E&SE/4-16/DEO(F) dated 05/04/2016. (Copy of Notification is attached as Annexure "D").

5. That the appellant was once again transferred to District Torghar as DEO(F) vide Notification dated 22/06/2016. (Copy of notification dated 22/06/2016 is attached as Annexure "E").
6. That after only three months the appellant was once again transferred to Abbottabad as DEO(F) vide order dated 26/09/2016. (Copy of order dated 26/09/2016 already attached as Annexure "A").
7. That on 01/08/2018 the special secretary (E&SE) Department Peshawar, directed the appellant to issue the transfer order of Miss. Ayesha Jehanzeb GGPS Lari Banota PST (BPS-12) U/C Pattan Kalan to Abbottabad, before closing hours under intimation to secretary (E&SE) KPK, Peshawar. (Copy of order dated 01/08/2018 is attached as Annexure "F").
8. That after thorough checking of the transfer case it was submitted to the concern authority that GGPS Lari is a

C7C

  
Muhammad Arshad Khan Tanoli  
Advocate High Court  
Office No: 33 Adjacent to  
Distt Bar Abbottabad

single teacher school and on account of the said transfer the school will be closed/ non functional, so the appellant was not in a position to comply the illegal and unlawful order. (Copy of letter dated 01/08/2018 is attached as Annexure "G").

9. That on account of noncompliance of above referred unlawful and illegal order dated 01/08/2018, the appellant was once again transferred from Abbottabad to RITE Mansehra vide order dated 31/07/2018. (Copy of order dated 31/07/2018 is attached as Annexure "H").

10. That it is pertinent to mention here that the order dated 31/07/2018 has been issued on 02/08/2018 with malafide intention just to conceal the facts of the case.

11. That the desired transfer order of the aforesaid PST Teacher was clear cut violation of the transfer posting regulatory Act 2011. (Copy of the said regulatory Act, 2011 is attached as Annexure "I").

C.T.C

Muhammad Arshad Khan Tanoli  
Advocate High Court  
Office No 33 Adjacent to  
Distt Bar Abbottabad

12. That due to frequent transfers of the appellant during the session, the education/ study of the appellant's two minor daughters studying in Class 2<sup>nd</sup> and 6<sup>th</sup> is being affected badly.

13. That on account of aforesaid political and administrative based frequent transfers the appellant and the family/ children of the appellant have been very badly tortured which resultantly affected the health of the appellant and the family matters as well.
  
14. That regarding the above said situation the appellant has already informed the competent authority in written. (Copy of letter is attached as Annexure "J").
  
15. That on account of performing services in District Torghar which is hardest District of the province it was promised/assured by the competent authority to transfer the appellant in the District of choice, but the said promise is still awaited. (Copy of minutes regarding the said assurance is attached as Annexure "K").
  
16. That the instant departmental appeal is within the prescribed time and the valuable rights of the appellant are involved.
  
17. That if the order dated 31/07/2018 is not set aside the appellant would suffer irreparable loss and on the other side setting aside the said order there is no loss to any one.

CTC  
Muhammad Ali  
Advocate High Court  
Office No 33 Adjacent to  
Distt Bar Abbottabad

29

5

18. That the RITE Mansehra where the appellant has been transferred, there is no student studying and on the other hand no one has been posted against the post of appellant as DEO(F), Abbottabad, which clearly proves victimization.

19. That the order dated 31/07/2018 is also liable to be set aside as it was issued with malafide intentions just to pressurize the appellant for illegal and unlawful orders.

20. That the order dated 31/07/2018 was issued in violation of the minutes of the placement committee dated 27/02/2014. (Copy of minutes is already attached as annexure "K").

21. That the order dated 31/07/2018 of the appellant is arbitrary perverse and against the law, therefore, the same is liable to be set aside.

In view of the above, it is humbly prayed that on acceptance of instant departmental appeal, the impugned order dated 31/07/2018 may be ordered to be set aside and appellant may be allowed to continue her service as DEO(F), Abbottabad in the interest of justice.

Muhammad Arshad Khan Anon  
Advocate High Court  
Office No 33 Adjacent to  
Distt Bar Abbottabad

Dated: 07/08/2018

(FAIZA SHAFI)  
DEO(Female)  
District Abbottabad



Annex "J"  
GOVERNMENT OF KHYBER PAKHTUNKHWA

ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT  
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar  
Phone: 091-9210480, Fax # 091-9211419

Dated Peshawar the October 8<sup>th</sup>, 2018

OFFICE ORDER

NO. SO(S/F)E&SED/4-16/2018/Mst. Faiza Shafi/BS-19:

WHEREAS Mst. Faiza Shafi (BS-19)

Teaching Cadre Officer of E&SE Department was posted as District Education Officer (Female) Abbottabad vide this department notification dated 26-09-2016 on stopgap arrangement basis.

2. AND WHEREAS she was transferred as Senior Instructor (BS-19) RITE (Female) Mansehra vide this department notification dated 31-07-2018.

3. AND WHEREAS she filled a departmental appeal against the said transfer order, which was examined and was found unsatisfactory.

4. NOW, THEREFORE, the Competent Authority, in view of the above, regretted her appeal.

SECRETARY

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 Officers (Female) Abbottabad & Mansehra.
4. District Accounts Officers Abbottabad & Mansehra.
5. Principal RITE (Female) Mansehra.
6. In-charge EMIS, E&SE Department for uploading at official website.
7. PS to Secretary E&SE Department, Peshawar.
8. Mst. Faiza Shafi, Senior Instructor (BS-19) RITE (Female) Mansehra.
9. Office order file.

SECTION OFFICER (SCHOOLS FEMALE)

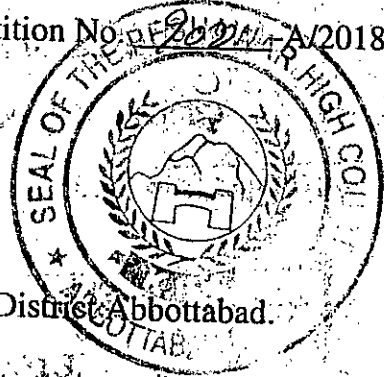
PTC  
  
Advocate High Court  
Office No 13 Adjacent to  
Distt Bar Abbottabad

Annex K2

**BEFORE THE PESHAWAR HIGH COURT,**  
**ABBOTTABAD BENCH**

(31)

Writ Petition No. PESHAWAR A/2018



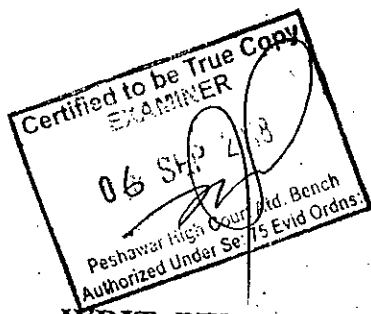
Faiza Shafi District Education Officer (Female), District Abbottabad.

...PETITIONER

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Secretary Elementary & Secondary Education Department, Peshawar.
2. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. Director DCTE, Khyber Pakhtunkhwa, Abbottabad.
4. Principal RITE (Female) Mansehra.
5. Deputy District Education Officer (Female), Abbottabad.
6. District Accounts Officer, Abbottabad.
7. District Accounts Officer, Mansehra.

...RESPONDENTS



No: 4187  
09/08/18

**WRIT PETITION UNDER ARTICLE 199 OF THE**  
**CONSTITUTION OF ISLAMIC REPUBLIC OF**  
**PAKISTAN, 1973, SEEKING DECLARATION/**

19/08/18

CTT

Muhammad Arshad Khan Tanoli  
Advocate High Court  
Office No 33 Adjacent to  
Distt Abbottabad

32

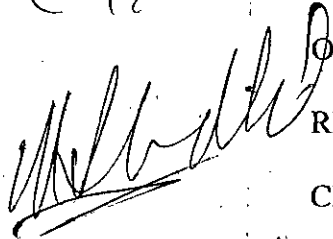
DIRECTION TO THE EFFECT THAT THE PETITIONER HAS BEEN TRANSFERRED FROM THE POST OF DISTRICT EDUCATION OFFICER (F) ABBOTTABAD AND POSTED AS INSTRUCTOR (BS-19) RITE (FEMALE) MANSEHRA VIDE NOTIFICATION DATED 31/07/2018, WHICH IS ILLEGAL, UNLAWFUL, WITHOUT LAWFUL AUTHORITY, ARBITRARY, PERVERSE, DISCRIMINATORY, MALAFIDE AND CONSEQUENTLY OF NO LEGAL EFFECT UPON THE RIGHTS OF PETITIONER.

---

**PRAYER:** ON ACCEPTANCE OF THE INSTANT WRIT PETITION, THE IMPUGNED NOTIFICATION DATED 31/07/2018 ISSUED BY RESPONDENT NO. 1 MAY KINDLY BE SET-ASIDE AND RESPONDENTS BE GRACIOUSLY DIRECTED NOT TO COMPEL THE PETITIONER TO RELINQUISH THE CHARGE OF THE POST FROM DISTRICT EDUCATION OFFICER (FEMALE) ABBOTTABAD. ANY OTHER RELIEF DEEMED FIT AND PROPER IN THE CIRCUMSTANCES OF THE CASE.

---

CTV



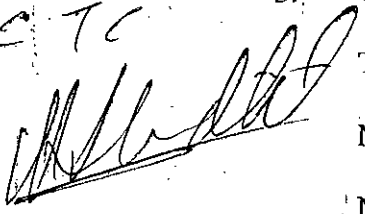
Muhammad Arshad Khan Tanoli  
Advocate High Court  
Office No 33 Adjacent to  
Distt Bar Abbottabad



**Respectfully Sheweth;-**

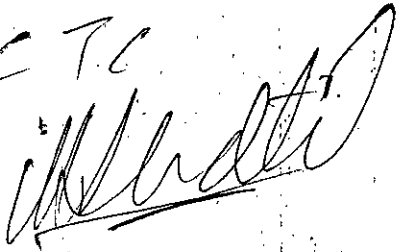
The facts giving rise to the instant petition are arrayed as under;-

1. That the petitioner is presently working as District Education Officer (Female) BPS-19, Abbottabad, since October, 2016. (Copy of order is attached as Annexure "A").
2. That the petitioner was transferred from GGCMHS, Haripur to DEO (Female) Torghar, vide Notification No. SO(S/F)E&SE/4-16/2013/Faiza Shafi DEO(Female) dated 25/04/2014. (Copy of Notification is attached as Annexure "B").
3. That once again the petitioner was transferred from Torghar to DEO (Female), Mansehra vide Notification dated 14/09/2015. (Copy of Notification dated 14/09/2015 is attached as Annexure "C").

C.T.C.  
  
Muhammad Arshad Khan Tanoli  
Advocate High Court  
Office No 33 Adjacent to  
Distt Bar Abbottabad

34

- 4
4. That after the short span of time again the petitioner was transferred from Mansehra and the services of the petitioner were placed at the disposal of the Director (E&SE) KPK, Peshawar vide Notification No. SO(S/F) E&SE/4-16/DEO(F) dated 05/04/2016. (Copy of Notification is attached as Annexure "D").
  5. That the petitioner was once again transferred to District Torghar as DEO(F) vide Notification dated 22/06/2016. (Copy of Notification dated 22/06/2016 is attached as Annexure "E").
  6. That after only three months the petitioner was once again transferred to Abbottabad as DEO(F) vide order dated 26/09/2016. (Copy of order dated 26/09/2016 already attached as Annexure "A").

C.T.C.  


Muhammad Ahsan Khan Tanoli  
Advocate High Court  
Office No 33 Adjacent to  
Distt Bar Abbottabad

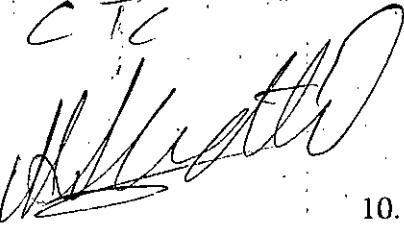
That on 01/08/2018 the Special Secretary (E&SE) Department Peshawar, directed the petitioner to issue the transfer order of Miss. Ayesha Jehanzeb GGPS Lari Banota PST (BPS-12) U/C Pattan Kalan to Abbottabad, before closing hours under intimation to Secretary (E&SE) KPK, Peshawar.

(Copy of order dated 01/08/2018 is attached as Annexure "F").

8. That after thorough checking of the transfer case it was submitted to the concern authority that GGPS Lari is a single teacher school and on account of the said transfer the school will be closed/ non functional, so the petitioner was not in a position to comply the illegal and unlawful order. (Copy of letter dated 01/08/2018 is attached as Annexure "G").

9. That on account of non-compliance of above referred unlawful and illegal order dated 01/08/2018 the petitioner was once again transferred from Abbottabad to RITE Mansehra vide order dated 31/07/2018. (Copy of order dated 31/07/2018 is attached as Annexure "H")

10. That feeling aggrieved, the petitioner assails the impugned order dated 31/01/2018 being illegal, unlawful, against the law, inter-alia, on the following amongst many other; -

CTC  
  
Muhammad Arshad Khan Tanoli  
Advocate High Court  
Office No 11 Adjacent to  
Distt Bar Abbottabad

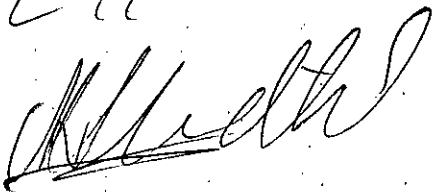
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**GROUNDS:-**

- a) That, the impugned order/Notification dated 31/07/2018 as has been issued by the respondent No.1 is illegal, unlawful, without lawful authority, arbitrary, perverse, discriminatory, malafide and consequently of no legal effects upon the rights of petitioner.
- b) That the petitioner has served with best of her ability for the entire satisfaction of her superiors.
- c) That it is pertinent to mention here that the order dated 31/07/2018 has been issued on 02/08/2018 with malafide intention just to conceal the facts of the case.
- d) That the desired transfer order of the aforesaid PST Teacher was clear cut violation of the Transfer Posting Regulatory Act, 2011. (Copy of the said Regulatory Act, 2011 is attached as Annexure "T")

C.T.C.

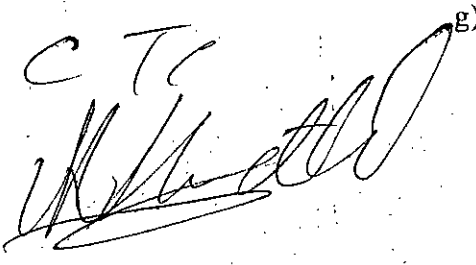


Muhammad Arshad Khan Tanoli  
Advocate High Court  
Office No 33 Adjacent to  
Distt Bar Abbottabad

e) That due to frequent transfers of the petitioner during the session, the education/ study of the petitioner's two minor daughters studying in Class 2<sup>nd</sup> and 6<sup>th</sup> is being affected badly.

f) That on account of aforesaid political and administrative based frequent transfers the petitioner and the family/ children of the petitioner have been very badly tortured which resultantly affected the health of the petitioner and the family matters as well.

g) That regarding the above said situation the petitioner has already informed the competent authority in written. (Copy of letter is attached as Annexure "J").

C.T.  
  
Muhammad Arshad Khan Tanoli  
Advocate High Court  
Office No 33 Adjacent to (h)  
Distt Bar Abbottabad

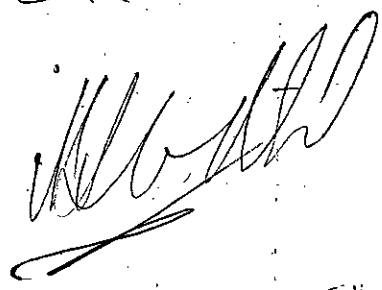
That on account of performing services in District Torghar which is hardest District of the Province it was promised/assured by the competent authority to transfer the petitioner in the District of petitioner's choice, but the said promise is still awaited. (Copy of

Minutes regarding the said assurance is attached as Annexure "K").

i) That the RITE Manshra where the petitioner has been transferred, there is no student is studying and on the other hand no one has been posted against the post of petitioner as DEO(F), Abbottabad, respondent No. 5 has assigned the additional charge of the post of the present petitioner, which clearly proves victimization.

j) That it is well settled by now that Article 199 casts an obligation on the High Court to act in Aid of law, protect the rights of the citizens within frame work of the Constitution against infringement of law and constitution by the executive authorities, strike a rational compromise and fair balance between the rights of the citizens and action of the state functionaries, claimed to be larger interest of the society. A power is conferred on the High Court under the constitution and is to be exercised subject to constitutional controlled executive action so

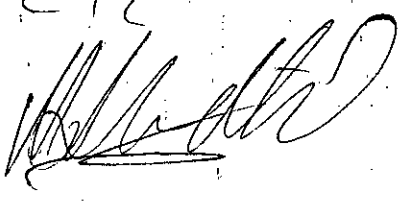
C.T.C



Muhammad Arshad Khan Tanoli  
Advocate High Court  
Office No 33 Adjacent to  
Distt Bar Abbottabad

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as to bring it inconformity with the law. Whenever, the executive acts in violation of the law an appropriate order can be granted, which will relieve the citizen of effects of illegal action. It is an omnibus article under which relief can be granted to the citizen of the country against infringement of any provision of law or of the constitution. If the citizen of this country are deprived of the guarantee given to them under the constitution, illegally or, not accordance with law then Article 199 can always be invoked for redress.

CTC  


Muhammad Nadeem Khan Tanoli  
Advocate High Court  
Office No 33 Adjacent to  
Distt Bar Abbottabad

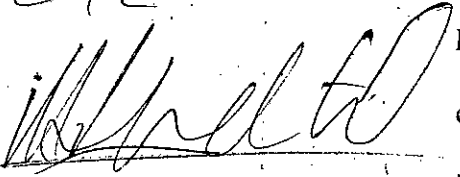
k) That even otherwise, there was no lawful justification with the respondent No.1 to transfer the petitioner. Even if the respondents were desirous to facilitate any person of their choice, she could have been adjusted in some other Station. This act of the respondents depicts malafide on their part. Hence, the impugned notification is liable to be set-aside.

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l) That the impugned transfer order of the petitioner has been issued on expired summary which was routed by the previous Govt. which is illegal, unlawful and result of malafide intention, hence, not sustainable in the eyes of law.

m) That, the respondent No.1 transferred/posted the petitioner without mentioning any reasons, under political pressure, ignoring all the rules and regulations on the subject, only to accommodate their well wisher(s) and blue eyed, which is not only against the law/ rules on the subject but is in violation of Article 4, 8 and 25 of the constitution *ibid.*

CTC  


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That the respondents have not treated the petitioner in accordance with law, rules and policy on the subject and acted in violation of Article-4 of the Constitution of Islamic Republic of Pakistan 1973 and unlawfully refused to promote the petitioner which is unjust, unfair, illegal, hence not sustainable in the eye of law.



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o) That under Section 24-A of General Clauses Act, 1897, where any authority is vested with the power to make any order, such power shall be exercised reasonably, fairly, justly and for the advancement of the purposes of the enactment under which the power is conferred but in the case in hand the power was not exercised as such, rather, the same was misused arbitrarily to the detriment of petitioner without any rhyme or reason, therefore, the impugned act of respondents is not legally maintainable.

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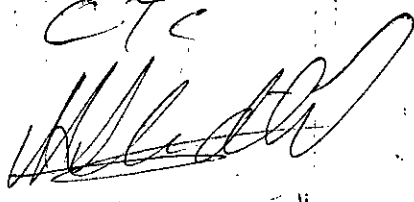
Muhammad Arshad Khan Tanoli  
Advocate High Court  
Office No: 33 Adjacent to  
Dist Bar Abbottabad

p) That it is inalienable right of every citizen to be treated in accordance with law and especially when placed in similar position with the other persons, thus, the impugned act being nullity in the eye of law is liable to be struck down.

q) That the impugned notification if seen from any angle, both factually and legally is not maintainable, hence, liable to be set-aside.

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- r) That there is no other efficacious, speedy or adequate remedy available to the petitioner except the instant constitutional petition.
- s) That the addresses of the parties are correctly mentioned in heading of writ petition.
- t) That the court fee stamp paper worth of Rs. 500/- is affixed.
- u) That notice of the instant writ petition has been sent to the respondents. Copies of notice and postal receipts are attached as Annexure "L".
- v) That the other grounds shall be urged at the time of arguments with the leave of this Honourable Court.

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Under the circumstances it is respectfully prayed that on acceptance of the instant writ petition, the impugned Notification dated 31/07/2018 issued by respondent no. 1 may kindly be set-aside and respondents be graciously directed not to compel the petitioner to

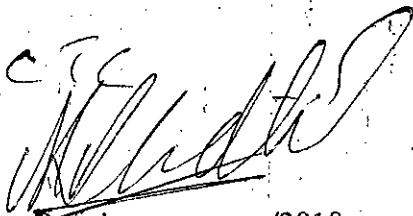
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relinquish the charge of the post from District Education Officer (Female) Abbottabad. Any other relief deemed fit and proper in the circumstances of the case.

**INTERIM RELIEF:**

It is further prayed that operation of the impugned order/Notification dated 31/07/2018 may kindly be suspended and respondents be directed not to compel the petitioner to relinquish the charge of the post of District Education Officer (Female) Abbottabad.

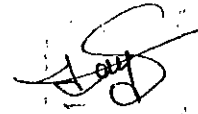


Dated: \_\_\_\_\_/2018

Muhammad Arshad Khan Tanoli  
Advocate High Court  
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Distt Bar Abbottabad

**VERIFICATION:-**

*Verified on oath that the contents of foregoing writ petition are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.*



...PETITIONER

Through



(Ch. Abdur Rauf Chohan)  
Advocate High Court, Abbottabad



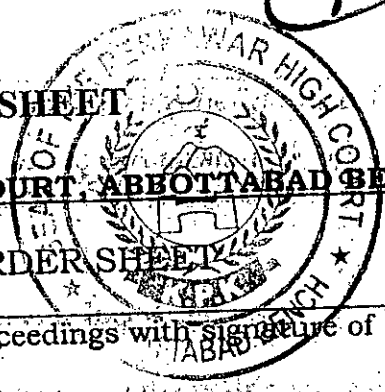
...PETITIONER

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JUDGMENT SHEET

IN THE PESHAWAR HIGH COURT, ABBOTTABAD BENCH

FORM OF ORDER SHEET



Date of order or proceedings (1)	Order or other proceedings with signature of Judge(s). (2)
05.09.2018	<p><b>W.P.No.900-A/2018.</b></p> <p><b>Present:-</b> Chaudhry Abdur Rauf Chohan, Advocate for petitioner.</p> <p>Raja Muhammad Zubair, AAG for respondents.</p> <p>*****</p> <p><b>SYED MUHAMMAD ATTIQUE SHAH, J:-</b></p> <p>Petitioner through the instant writ petition has approached this Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, with the following prayer:-</p> <p><i>“Under the circumstances it is respectfully prayed that on acceptance of the instant writ petition, the impugned Notification dated 31.07.2018 issued by respondent No.1 may kindly be set aside and respondents be graciously directed not to compel the petitioner to relinquish the charge of the post from District Education Officer (Female),</i></p>

Certified to be True Copy  
EXAMINER  
06 SEP 2018  
Peshawar High Court, Abbottabad Bench  
Authorized Under Sec: 75 Evid Ordos

CTC  
*[Signature]*

Muhammad Arshad Khan Tanoli  
Advocate High Court  
Office No 33 Adjacent to  
Distt Bar Abbottabad

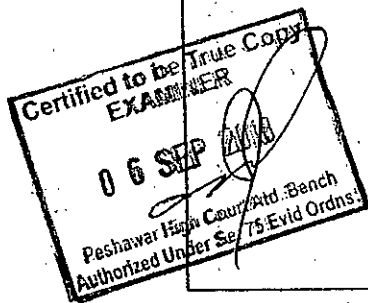
Aftab P.S/

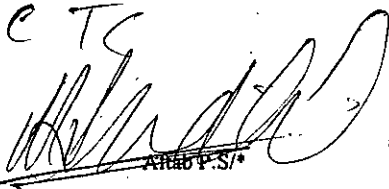
Justices Syed Muhammad Attique Shah and Syed Arshad Ali.

*Abbottabad. Any other relief deemed fit and proper in the circumstances of the case."*

2. Arguments heard and record perused.

3. It is alleged by the petitioner that when she was lastly posted as District Education Officer (Female), Abbottabad, she was asked by the Secretary Elementary and Secondary Education Department of Khyber Pakhtunkhwa to post Miss Ayesha Jehanzeb, Primary Teacher, who was working in Govt: Girls School Larri U/C Pattan Kalan at Abbottabad City or nearby station through letter dated 01.08.2018. It was further directed in the said letter to issue transfer order on the same day before closing hours under intimation to the Secretariat. Since there was no vacant seat available in District Abbottabad, therefore, the petitioner had intimated the same to the Section Officer (Female), Elementary and Secondary Education Department, Government Khyber Pakhtunkhwa through letter dated 01.08.2018. In retaliation of the same, the petitioner was



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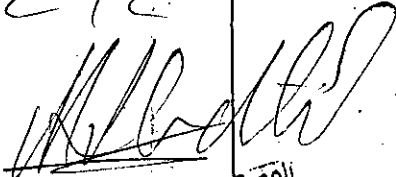
Justices Syed Muhammad Attique Shah and Syed Arshad Ali.

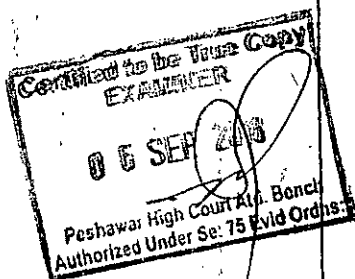
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Distt Bar Abbottabad

transferred from Abbottabad to RITE (Female),  
Manshra through letter dated 31.07.2018, which  
was intentionally back dated.

4. Since the matter pertains to posting  
and transfer of the civil servant, therefore, the  
jurisdiction of this Court to interfere in the same is  
barred under Article 212 of the Constitution of  
Islamic Republic of Pakistan, 1973. However, the  
allegations made in this petition is a big question on  
the tall claims of Government of Khyber  
Pakhtunkhwa i.e. non-interference of politician in  
posting and transfer of civil servant. Therefore, we  
treat this writ petition as representation/appeal and  
send it to the Worthy Chief Secretary of Khyber  
Pakhtunkhwa, who shall decide the same after  
giving full opportunity of hearing to the petitioner  
within a period of thirty (30) days from the date of  
receipt of this order. The office is directed to retain  
the copy of this petition and transmit the original  
file to the Worthy Chief Secretary of Khyber  
Pakhtunkhwa forthwith.

5. With these observations, this writ

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petition is disposed of accordingly.

**Announced.**  
05.09.2018.

Certified to be True Copy  
EXAMINER  
06 SEP 2018  
Peshawar High Court Atm. Bench  
Authorized Under Sec. 15 of Ordns.

C.T.C

Muhammad Arshad Khan Tanoli  
Advocate High Court  
Office No 33 Adjacent to  
Distt Bar Abbottabad

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No.	5027
Date of Presentation of Application	06/09/08
No of Copy	5/201
Copying Fee	250
Urgent Fee	230
Total	
Name of Copy	
Date of Examination of Copy	06/09/08
Date of Delivery of Copy	06/09/08



Annex 2



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Q kpk regulatory act 2011 pff



ALL NEWS IMAGES VIDEOS MAPS BOOKS

Did you mean: kpk regulatory act 2011 pff

(appointment, deputation, posting and transfer of teachers ... - KP CODE - Khyber Pakhtunkhwa PDF kpcode.kp.gov.pk › uploads › 2011\_12\_...

POSTING AND TRANSFER OF TEACHERS, LECTURERS, INSTRUCTORS AND DOCTORS) REGULATORY ACT, 2011. (KHYBER PAKHTUNKHWA ACT NO ...

Missing: 2011-pff | Must include: 2011pff  
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The Khyber Pakhtunkhwa Private Schools Regulatory Authority Act, 2017. - Details kpcode.kp.gov.pk › lawDetails

THE KHYBER PAKHTUNKHWA PUBLIC PRIVATE SCHOOLS REGULATORY AUTHORITY ACT, 2017. ( KHYBER PAKHTUNKHWA ACT NO XXV OF 2017).

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