



22.07.2019

Learned counsel for the appellant present. Mr. Muhammad Jan learned Deputy District Attorney for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 18.09.2019 before D.B.

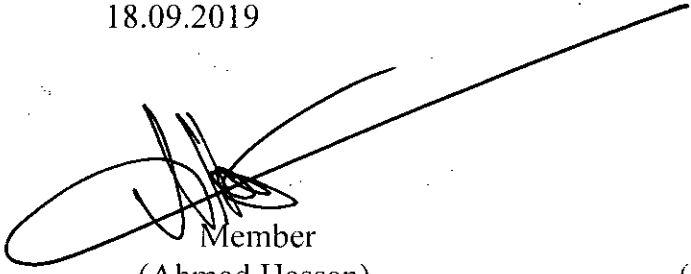

(Hussain Shah)
Member



(M. Amin Khan Kundi)
Member

18.09.2019

Counsel for the appellant and Mr. Ziaullah, DDA for respondents present. Counsel for the appellant requested for withdrawal of the instant appeal. In this respect his signature also obtained in the margin of the order sheet. Request accepted and the appeal in hand is therefore, dismissed as withdrawn. No order as to cost. File be consigned to the record room.

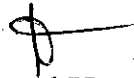
Announced:
18.09.2019


Member
(Ahmad Hassan)


Member
(M. Hamid Mughal)

*Sir, I want to withdraw
the instant appeal.
Mr. Zia
18/9/2019*

11.06.2019 Counsel for the appellant and Addl: AG alongwith Mr. Muhammad Israr, Junior Clerk for respondents present. Written reply/comments on behalf of respondents no. 1 to 3 submitted which is placed on file. Written reply on behalf of respondent no. ~~5~~ not submitted. Notice be issued to him for submission of written reply/comments. Case to come up written reply of respondent no. ~~5~~ on 08.07.2019 before S.B.



(Ahmad Hassan)
Member

08.07.2019 Counsel for the appellant and Addl. AG for respondents No. 1 to 3 present. Nemo for respondent No. 4.

On the last date of hearing the respondent No. 4 was required to be issued fresh notice which has ~~positively~~ been sent through registered post. Despite, no one is in attendance on behalf of the said respondent, therefore, placed ex-parte. To come up for arguments before the D.B on 22.07.2019. The appellant may submit rejoinder within a fortnight, if so advised.



Chairman

03.01.2019

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents present. Representative of the department is not present nor written reply submitted therefore, notice be issued to the respondents with the direction to direct the representative to attend the court and submit written reply on the next date positively. Adjourned. To come up for written reply/comments on 14.03.2019 before S.B.


Muhammad Amin Khan Kundi
Member

14.03.2019

Learned counsel for the appellant present. Written reply not submitted. Mr. Irfan AD representative of the respondents department absent. He be summoned with the direction to furnish written reply/comments. Adjourn. To come up for written reply/comments on 17.04.2019 before S.B.


Member

17.04.2019

Junior to counsel for the appellant present. Written reply not submitted. Irfan AD representative of respondent department present and seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 11.06.2019 before S.B


Member

16.10.2018

Counsel for the appellant present. Preliminary arguments heard and case file perused. Learned counsel for the appellant argued that vide impugned order dated 15.05.2018 he was transferred from GPGC, Nowshera to GDC, Kaki, Bannu. Feeling aggrieved he filed departmental appeal on 09.07.2018 followed by writ petition no. 36-30/2018 in Peshawar High Court, Peshawar which was disposed of vide judgment dated 16.08.2018. Departmental appeal of the appellant was not decided within the stipulated period, hence, the instant service appeal. Transfer of the appellant was made in pursuance of a complaint dated 13.03.2018 lodged by Principal GPGC, Nowshera. Learned counsel for the appellant further contended that transfer on administrative grounds was not permissible under the law/rules. Prima-facie the appellant has completed normal tenure at Nowshera. Wife of the appellant is also working as Lecturer in Govt: Home Economics College, Nowshera, as such spouse policy is also attracted in this case. A separate application for suspension of impugned order dated 15.05.2018 has also been submitted by the learned counsel for the appellant.

Appellant Deposited
Security & Process Fee

Points urged need consideration. Admit, subject to deposit of security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 15.11.2018 before S.B. Notice of stay application be also issued to the respondents for the date fixed.


(AHMAD HASSAN)
MEMBER

15.11.2018


Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 03.01.2019. Written reply not received. Mr. Murad Khan Superintendent representative of respondents absent.


Reader

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. _____ 1291/2018 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	11/10/2018	<p>The appeal of Mr. Taimur Khan presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p>
2-	12-16-18	<p style="text-align: right;"> REGISTRAR 11/10/18</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>16-10-2018</u></p> <p style="text-align: right;">Members</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 1291 /2018

TAIMUR KHAN

VS

EDUCATION DEPTT:

INDEX

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5.	Service certificate	C	18.
6.	Departmental appeal	D	19.
7.	Memo of writ petition	E	20- 23.
8.	Judgment	F	24- 26.
9.	Letters	G	27-29.
10.	Transfer/posting Policy	H	30- 32.
11.	Vakalat nama	33.

APPELLANT

THROUGH:

NOOR MOHAMMAD KHATTAK,
ADVOCATE

Flat No. 3, Upper Floor,
Islamia Club Building,
Khyber Bazar, Peshawar
0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

APPEAL NO. 1291 /2018

Diary No. 1523

Mr. Taimur Khan, Assistant Professor (Physics),
GPGC Nowshera under transfer to Government Degree College, Kaki Buner.
.....**APPELLANT**

Dated 11-10-2018

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Higher Education, Archives and Libraries Department, Khyber Pakhtunkhwa, Peshawar.
- 3- That Director Higher Education Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The Principal Government Post Graduate College, Nowshera.

.....**RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 15.05.2018 COMMUNICATED TO THE APPELLANT ON 22.6.2018 WHEREBY THE APPELLANT HAS BEEN TRANSFERRED TO GDC KAKI BUNER FROM GPGC NOWSHERA ON ADMINISTRATIVE GROUND AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the impugned order dated 15.05.2018 communicated to the appellant on 22.6.2018 may very kindly be set aside and the respondents may be directed not to transfer the appellant from GPGC Nowshera. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

- 1- That appellant is the employee of the respondent Department and is serving as Assistant Professor (Physics) at GPGC Nowshera quite efficiently and up to the entire satisfaction of his superiors.
- 2- That during service at GPGC Nowshera the appellant have performed his duty regularly and his performance reports is 100% according to the college record. Copies of the record are attached as annexure.....**A.**

Filed to-day
11/10/18
Registrar

- 3- That during service the appellant was transferred from GPGC Nowshera to GDC Kaki, Buner vide Notification dated 15.05.2018 communicated to the appellant on 22.6.2018 on administrative ground inspite of the fact that the appellant had never absented himself from duty nor he was involved in any misconduct. Copy of the impugned Notification dated 15.05.2018 is attached as annexure..... **B.**
- 4- That it is pertinent to mention that wife of the appellant is also the employee of Higher Education Department and is serving as Lecturer in the GGDC Nowshera. Copy of the service certificate is attached as annexure **C.**
- 5- That feeling aggrieved from the impugned order dated 15.05.2018 communicated to the appellant on 22.6.2018 filed Departmental appeal before the appellate authority but the appellate authority kept mum on the Departmental appeal of the appellant. That feeling aggrieved from the inaction of the respondent No.1 the appellant filed writ petition No. 3630/2018 before the Peshawar High Court Peshawar in light of clause-xiv of the transfer/posting policy and as such the same was allowed vide judgment dated 16.08.2018 with the direction to decide the Departmental appeal of the appellant in accordance with law through a speaking order. Copies of the Departmental appeal, memo of writ petition and judgment are attached as annexure..... **D, E & F.**
- 6- That after receiving attested copy of the judgment dated 16.08.2018 the appellant submitted the same before the appellate authority but inspite of clear directions of the Honorable Peshawar High Court Peshawar the appellate authority was using delaying tactics and has failed to decide the Departmental appeal of the appellant within the statutory period. Copies of the letters are attached as annexure **G.**
- 7- That appellant feeling aggrieved and having no other remedy filed the instant service appeal before this august Tribunal on the following grounds amongst the others.

GROUND:

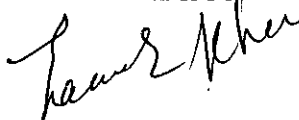
- A- That the impugned order dated 15.05.2018 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That appellant has not been treated in accordance with law and rules by the respondents on the subject noted above and as such the respondents violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan-1973.

- C- That the respondent Department acted in arbitrary and malafide manner while issuing the impugned Notification dated 15.05.2018.
- D- That the impugned Notification dated 15.05.2018 has neither been issued in the public interest nor in exigencies of service.
- E- That the impugned Notification dated 15.05.2018 has been issued in violation of Clause-I, II & IX of the transfer/posting policy of the provincial Government. Copy of the transfer/posting policy is attached as annexure.....H.
- F- That according to the reported judgment of this august Tribunal transfer cannot be imposed as a punishment so in light of the principle of consistency the appellant also deserve similar relief.
- G- That the impugned order dated 15.5.2018 is violative of spouse policy, therefore the said impugned order dated 15.5.2018 is not tenable and liable to be set aside.
- H- That the impugned order dated 15.5.2018 is discriminatory and arbitrary in the eye of law.
- I- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated: 10.10.2018

APPELLANT

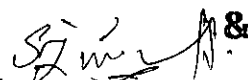


TAIMUR KHAN

THROUGH:



NOOR MOHAMMAD KHATTAK



SHAHZULLAH KHAN YOUSAFZAI

ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. _____/2018

TAIMUR KHAN

VS

EDUCATION DEPTT:

APPLICATION FOR SUSPENSION OF
OPERATION OF THE IMPUGNED ORDER DATED
15.05.2018 TILL THE DISPOSAL OF THE ABOVE
MENTIONED APPEAL

R/SHEWETH:

- 1- That the above mentioned appeal along with this application has been filed the appellant before this august service Tribunal in which no date has been fixed so far.
- 2- That appellant filed the above mentioned appeal against the impugned order dated 15.05.2018.
- 3- That all the three ingredients necessary for the stay is in favor of the appellant.
- 4- That the impugned order dated 15.05.2018 had been issued by the respondents in utter disregard of law and prevailing Rules.

It is therefore, most humbly prayed that on acceptance of this application the respondents may kindly be directed not to transfer the appellant from GPGC till the disposal of the above mentioned appeal.

Dated: 10.05.2018

APPLICANT

Taimur Khan
TAIMUR KHAN

THROUGH:

Noor Mohammad Khattak
NOOR MOHAMMAD KHATTAK

Shahzullah Khan Yousafzai
SHAHZULLAH KHAN YOUSAFZAI
ADVOCATES

OFFICE OF THE PRINCIPAL
GOVT. POSTGRADUATE COLLEGE
NOWSHERA CANTT

No. (2304) Dated. (13/03/2018)

Contacts:
Pho# 0923-9220142
Cell: +92333-9404351
Cell: +92301-8109007
Cell: +92335-2175670
Email: gpgcnowsheera6@gmail.com
Email: m.ishaq1972@gmail.com



To,

Director
Higher Education
Khyber Pakhtunkhwa Peshawar

(S)
A-5

SUBJECT: TRANSFER UNDER REPORT

Sir,

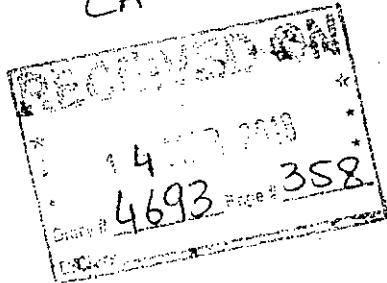
Reference to the subject cited above, you are requested to transfer the following teaching staff of the college somewhere else due to their repeated irresponsible approach.

S. No	NAME	DESIGNATION
1	TAIMUR KHAN	Assistant Professor of Physics
2	DIL ARAM KHAN	Lecturer in Physics

Principal
Govt. Postgraduate College
Nowshera

(Signature)

CA-II



o/c

ATTESTED

(Signature)

ATTESTED

(Signature)



OFFICE OF THE PRINCIPAL
GOVT. POSTGRADUATE COLLEGE
NOWSHERA CANTT

Pho# 0923-9220142
Cell: +92333-9404351
Cell: +92301-8109007
Cell: +92335-2175670
Email: gpgcnowsheera6@gmail.com
Email: m.ishaq1972@gmail.com



No. (2397) Dated. (31/03/2018)

6

To,

The Director
Higher Education
Khyber Pakhtunkhwa Peshawar

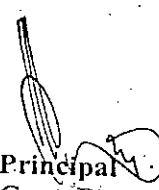
SUBJECT: TRANSFER UNDER REPORT

Memo:

Reference to the subject cited above, it is submitted for your kind information that Mr. Taimur Khan Assistant Professor of Physics and Mr. Dilaram Khan Lecturer in Physics were reported for under report transfer vide this office letter No. 2304 Dated. 13-03-2018. The officers concerned have promised verbally as well as in written for full compliance in future.

It is therefore requested to file the said case with no action at your part.

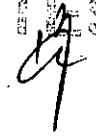
O/C


Principal
Govt. Postgraduate College
Nowshera


CA-II
RECEIVED ON
02 APR 2018
Diary # 5542 Page # 101

ATTESTED



ATTESTED


F-157

 **Higher Education, Archives and Libraries Department**
Government of Khyber Pakhtunkhwa

Employee Attendance Report (Individual) (Tuesday, July 03)

Print Report

Summary :




1. Name: Taimur Khan
2. CNIC : 1720122727111
3. Gender : Male
4. FP.ID : 13355
5. Designation: Assistant Professor
6. Scale : BPS-18
7. Department: Govt Postgraduate College Nowshehra
8. Shift : Morning ,In Time: 07:59:59 ,Out Time: 13:59:59 ,Grace Time: 08:29:59

S.No	Attendance Date	Day	In Time	Out Time	Status
1	01/01/2018	Monday	10:18 AM	MTO	Present
2	01/02/2018	Tuesday	10:34 AM	MTO	Present
3	01/03/2018	Wednesday	10:41 AM	MTO	Present
4	01/04/2018	Thursday	10:19 AM	MTO	Present
5	01/05/2018	Friday	10:12 AM	MTO	Present
6	01/06/2018	Saturday	10:25 AM	MTO	Present
7	01/07/2018	Sunday	--	--	Week-Holiday
8	01/08/2018	Monday	--	--	On-Leave
9	01/08/2018	Monday	4:11 PM	MTO	Present
10	01/09/2018	Tuesday	9:21 AM	MTO	Present
11	01/09/2018	Tuesday	--	--	On-Leave
12	01/10/2018	Wednesday	9:26 AM	MTO	Present
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ATTESTED

ATTESTED

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61	02/28/2018	Wednesday	10:21 AM	MTO	Present

ATTESTED



ATTESTED



 **Higher Education, Archives and Libraries Department**
Government of Khyber Pakhtunkhwa

Employee Attendance Report (Individual) (Tuesday, July 03)

Dina Report


Summary :

1. Name: Taimur Khan
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S.No	Attendance Date	Day	In Time	Out Time	Status
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ATTESTED

ATTESTED



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71	05/10/2018	Thursday	9:06 AM	12:37 PM	Present








ATTESTED


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ATTESTED
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72	05/11/2018	Friday	9:04 AM	12:43 PM	Present
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83	05/22/2018	Tuesday	8:33 AM	12:46 PM	Present
84	05/23/2018	Wednesday	--	--	On-Leave
85	05/24/2018	Thursday	--	--	On-Leave
86	05/25/2018	Friday	8:40 AM	11:33 AM	Present
87	05/26/2018	Saturday	9:26 AM	11:09 AM	Present
88	05/27/2018	Sunday	--	--	Week-Holiday
89	05/28/2018	Monday	9:24 AM	12:50 PM	Present
90	05/29/2018	Tuesday	9:35 AM	12:28 PM	Present
91	05/30/2018	Wednesday	9:48 AM	1:00 PM	Present
92	05/31/2018	Thursday	9:46 AM	2:07 PM	Present

ATTESTED


ATTESTED


Govt. Postgraduate college Nowshera
B.S Result Fall and Spring - 2016-17



12

B.S Physics

Semester	Total Appear	Fail	Passed	Pass %age
1st	52	0	52	100
3rd	32	0	32	100
5th	27	0	27	100
7th	27	0	27	100

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Semester	Total Appear	Fail	Passed	Pass %age
2nd	43	0	43	100
4th	30	1	29	97
6th	29	0	29	100
8th	27	0	27	100

1st semeater					
Subjects	Teacher Name of subjects	Total Appear	Fail	Pass	Pass %age
is	HAFIZ RAZA	52	0	52	100
Functional Eng	MUKHTAR	52	0	52	100
Mechanics-i	MAJID SHEHZAD	52	0	52	100
Algebra	MUHAMMAD ISHAQ	52	11	41	79
intro to Sociology	MUHAMMAD TARIQ	52	0	52	100
waves & oscillation	FAIQ JAN	52	2	50	96
3rd Semester					
Subjects	Teacher Name of subjects	Total Appear	Fail	Pass	Pass %age
Physical Chemistry	SHAH HUSSAIN	32	0	32	100
Electro magnetic theory i	DIL ARAM KHAN	32	0	32	100
Calculus	WAQAS	32	5	27	84
Heat & Thermodynamics	ASAD KHAN	32	0	32	100
Tech. Writing	AZGHAR NAJEEB	32	0	32	100

2nd semeater					
Subjects	Teacher Name of subjects	Total Appear	Fail	Pass	Pass %age
Pak study	ZUBAIR	43	0	43	100
Communication skill	UMAR FAROQ	43	1	42	98
Intro to computer	FAZAL TARIQ	43	0	43	100
Mechanics-ii	TAUMR KHAN	43	2	41	95
Optics	RIAZ AHMAD	43	0	43	100
Health & physical Education	SAMI ULLAH	43	0	43	100
4th Semester					
Subjects	Teacher Name of subjects	Total Appear	Fail	Pass	Pass %age
Modern physics	YASIR MUNEER	32	2	30	93
Civilization	SAJJAD SAMAD	32	1	31	97
Electromagnetics theory-ii	FAIQ JAN	32	1	31	97
Intro to programing	M. RAFEEQ	32	0	32	100
Mathematics for physics	HIJAB UR REHMAN	32	2	30	93

ATTESTED

ATTESTED

A


5th semester					
Subjects	Teacher Name of subjects	Total Appear	Fail	Pass	Pass %age
Electronics	BASHIR AHMAD	27	0	27	100
Classical Mechanics	TAIMUR KHAN ✓	27	2	25	93
Electrodynamics-i	RIAZ AHMAD	27	3	24	89
Mathematical Methods of Physics i	TAIMUR KHAN ✓	27	2	25	93
Quantum Mechanics-i	FAIQ JAN	27	1	26	96


7th semester					
Subjects	Teacher Name of subjects	Total Appear	Fail	Pass	Pass %age
Laser physics	DIL ARAM KHAN	27	0	27	100
Solid State Physics-II	YASIR MUNEER	27	0	27	100
Thermal & statistical Physics	DIL ARAM KHAN	27	1	26	96
Nano Technology	ASAD KHAN	27	0	27	100
Nuclear Physics	MAJID SHEHZAD	27	0	27	100

6th semester					
Subjects	Teacher Name of subjects	Total Appear	Fail	Pass	Pass %age
Solid state physics	MAJID SHEHZAD	29	0	29	100
Atomic & molecular physics	YASIR MUNEER	29	0	29	100
Electrodynamics ii	ASAD ALI	29	0	29	100
MMP-ii	TAIMUR KHAN ✓	29	0	29	100
Quantum mechanics-ii	FAIQ JAN	29	0	29	100

8th semester					
Subjects	Teacher Name of subjects	Total Appear	Fail	Pass	Pass %age
Partical physics	DIL ARAM	27	0	27	100
Exp Nuclear physics	DIL ARAM	27	0	27	100
Cosmology	TAIMUR KHAN ✓	27	0	27	100
Super conductors	ASAD ALI	27	0	27	100
Semi conductor devices	ASAD ALI	27	0	27	100

13

ATTESTED


ATTESTED


Govt. Postgraduate college Nowshera
B.S Result Fall and Spring - 2017-18

~~14~~ ~~14~~ 14

B.S Physics

Semester	Total Appear	Fail	Passed	Pass %age
1st	70	0	70	100
3rd	38	0	38	100
5th	31	0	31	100
7th	26	1	25	96

165 1 164

Semester	Total Appear	Fail	Passed	Pass %age
2nd				
4th				
6th				
8th				

1st semeater					
Subjects	Teacher Name of subjects	Total Appear	Fail	Pass	Pass %age
IS		70	4	66	94
Functional Eng		70	0	70	100
Mechanics-i					
Algebra		70	1	69	98
Intro to Sociology		70	2	68	97
waves & oscillation		70	4	66	94

3rd Semester					
Subjects	Teacher Name of subjects	Total Appear	Fail	Pass	Pass %age
Physical Chemistry		38	0	38	100
Electro magnatic theory		38	0	38	100
Calculus		38	1	37	97
Heat & Thermodynamics		38	0	38	100
Tech. Writing		38	1	37	97

2nd semeater					
Subjects	Teacher Name of subjects	Total Appear	Fail	Pass	Pass %age
Pak study					
Communication skill					
Intro to computer					
Mechanics-ii					
Optics					
Health & physical Education					

4th Semester					
Subjects	Teacher Name of subjects	Total Appear	Fail	Pass	Pass %age
Modern physics					
Civilization					
Electromagnetics theory-ii					
Intro to programing					
Mathematics for physics					

ATTESTED

[Signature]

ATTESTED

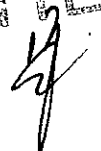
5th semester					
Subjects	Teacher Name of subjects	Total Appear	Fail	Pass	Pass %age
Electronics		31	1	30	97
Classical Mechanics	TAIMUR KHAN ✓	31	0	31	100
Electrodynamics-i		31	1	30	97
Mathematical Methods of Physics i	TAIMUR KHAN ✓	31	1	30	97
Quantum Mechanics-i		31	0	31	100


7th semester					
Subjects	Teacher Name of subjects	Total Appear	Fail	Pass	Pass %age
Laser physics		26	0	26	100
Solid State Physics-II		26	0	26	100
Thermal & statistical Physics	TAIMUR KHAN ✓	26	4	22	85
Nano Technology		26	4	22	85
Nuclear Physics		26	4	22	85

6th semester					
Subjects	Teacher Name of subjects	Total Appear	Fail	Pass	Pass %age
Solid state physics					
Atomic & molecular physics					
Electrodynamics ii					
MMP-ii					
Quantum mechanics-ii					

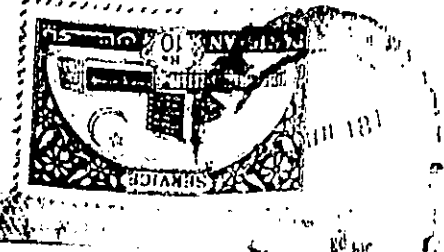
8th semester					
Subjects	Teacher Name of subjects	Total Appear	Fail	Pass	Pass %age
Partical physics					
Exp Nuclear physics					
Cosmology					
Super conductors					
Semi conductor devices					

2023
70
15

ATTESTED


ATTESTED


16



ATTESTED

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GOVT: OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT

Dated: Peshawar, May 15, 2018.

NOTIFICATION:

NO. SO (C-II)/HED/13-17/2018: The competent authority is pleased to order posting/transfer of the following officers, with immediate effect, in the public interest.


S#	Name of Officer	From	To	Remarks
1.	Mr. Taimur Khan, Asst. Prof. of Physics (BS-18)	GPGC Nowshera	GDC Kaki Bannu	AVP
2.	Mr. Dil Aram Khan, Lecturer in Physics (BPS-17)	GPGC Nowshera	GDC Daggar Buner	AVP

Note: No TA/DA is allowed.

SPECIAL SECRETARY
HIGHER EDUCATION DEPARTMENT

ENDST: NO. & DATE EVEN.

ATTESTED



ATTESTED





GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION ARCHIVES &
LIBRARIES DEPARTMENT

Handwritten marks and numbers: A, B, 17

Dated: Peshawar, May 15, 2018.

NOTIFICATION

NO. SO (C-II)/HED/13-17/2018: The competent authority is pleased to order posting/
transfer of the following officers, with immediate effect, in the public interest:

S.#	Name of Officer	From	To	Remarks
1	Mr. Taimur Khan, Asst. Prof. of Physics (BS-18)	GPGC Nowshera	GDC Kaki Bannu	AVP
2	Mr. Dil Aram Khan, Lecturer in Physics (BS-17)	GPGC Nowshera	GDC Dargar Bannu	AVP

Note: No T.A / D.A is allowed.

SPECIAL SECRETARY
HIGHER EDUCATION DEPARTMENT

ENDST: NO. & DATE EVEN

Copy forwarded to the:

1. Director, Higher Education Khyber Pakhtunkhwa, Peshawar w/r to his letter 12560/ CA-II/Estt; Branch dated 20.04.2018.
2. Principals of the concerned Govt. Colleges.
3. Deputy Director (IT), HEMIS Coll, Higher Education Department.
4. Officers concerned.
5. PS to Special Secretary, Higher Education Department.

(Muhammad Fayaz Khan)
SECTION OFFICER (COLLEGES-II)

ATTESTED

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ATTESTED

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OFFICE OF THE PRINCIPAL, GOVT. HOME ECONOMICS
COLLEGE, NOWSHERA

PHONE NO. 0923580121

EMAIL: ghcc.nsr@gmail.com



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CERTIFICATE OF THE TRANSFER OF CHARGE

- 1) Certified that we have on the fore/afternoon of this day respectively made over and receive charge of this office of the Principal Govt. Home Economics College, Nowshera
- 2) Particulars of cash and important secret and confidential documents handed over are noted as under.

Signature of relieved
Government Servant

Designation Against Vacant Post

Station: Govt. Home Economics College, Nowshera (Prinpal)

Signature of relieving
Government Servant HIRA ALI

Designation Lecturer in Home

Economics BPS-17

Dated 31st May 2018

Endst: No. 1944-47 Dated 1-6-2018

Copy of the above is forwarded to the:

- 1) Director Higher Education, Khyber Pakthunkhwa, Peshawar.
- 2) District Account Office, Nowshera.
- 3) Officer Concerned.
- 4) Personal File

ATTESTED

[Handwritten signature]

[Handwritten signature]

**Principal
G.H.E.C, Nowshera**

(208) D-19

The Secretary Higher Education, Archives and Libraries Department, Peshawar,
Khyber Pakhtunkhwa.

**SUBJECT: APPEAL U.S.10(XIV), OF THE NWFP CIVIL SERVICE ACT, 1973,
AGIANST THE TRANSFER ORDER NO. SO(C-II)/HED/13-
17/2018, DATED PESHAWAR THE MAY 15th, 2018.**

Respectfully submitted as follows:-

That the appellatant is a Govt, employees, was posted/transferred as Assistanat Professor (BPS-18) at GPGC Nowshera vide order No SO (Colleges -11) HED/14-1/2013, Dated May 27th, 2013.

That the appellatant has performed his duty well according to the rules framed by the Higher Education Department with 100% biometric Attendance record (the relevant copies for proof are hereby attached) and possess excellent teaching techniques and subject knowledge (result attached) and the appellatant will explain his position orally if needed.

That the wife of the appellatant posted as Lecturer at Government HomeEconomics College Nowshera and according to the posting/ transfer policy of the Provincial Government, and the Wedlock policy of Government of Pakistan , the husband /wife , both in Provincial Services, are posted the same station in order to avoid socio-economic problems.

That on 15th May 2018, the appellatant was transferred and his services were placed at the disposal of Directorate Higher Education with immediate effect. (Copy of the order is hereby attached).

That the appellatant is currently, enrolled in MPhil Physics (evening shift) at Abdul Wali khan University, Mardan for his academic promotion and in the best interest of students, for which The Directorate of Higher Education has granted him NOC , and due to this transfer that will also be affected.

That the transfer order is not in public interest, but to victimize the appellatant, Without assigning any reason and without giving any opportunity to be heard and defend himself, and is pre-mature, hence is in violation of Sec.10(i) (iv) of the said Act.

That the appeal is in time and the authority has got the jurisdiction to entertain the same.

Prayer:- it is therefore prayed that upon acceptance of this appeal, the impugned order may kindly be suspended till the final disposal of this appeal.

ATTESTED

ATTESTED

Dated:-09-07-2018.

Appellant
TAIMUR KHAN *Taimur Khan*
Assistant Professor (Physics)
GPGC Nowshera
Cell No.03329213953

Affidavit:- Solemnly affirm and declare that the contents of this appeal are true to the best of Knowledge and belief.

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

WRIT PETITION NO. 3630 /2018

- 1- Mr. Dilaram Khan, Lecturer in Physics,
GPGC Nowshera under transfer to Government Degree College,
Daggar Buner.
- 2- Mr. Taimur Khan, Assistant Professor (Physics),
GPGC Nowshera under transfer to Government Degree College,
Kaki Buner.

..... **Petitioners**

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Higher Education, Achieves and Libraries Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director Higher Education Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The Principal Government Post Graduate College Nowshera.

..... **Respondents**

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973 AS AMENDED UP TO DATE

R/SHEWETH:

ON FACTS:

- 1- That, petitioners are the employees of the respondents Department and are serving as Lecturer and Assistant Professor respectively quite efficiently and up to the entire satisfaction of their superiors.
- 2- That, petitioners while performing their duties at Government Post Graduate College, Nowshera the impugned Notification was issued whereby petitioner No.1 was transferred to GDC Dager Buner and petitioner no.2 was transferred to GDC Kaki Bannu on administrative ground. Copy of the impugned Notification dated 15.5.2018 is attached as annex..... **A.**
- 3- That during service at GPGC Nowshera the petitioners have performed their duties regularly and their performance reports are 100% according to the college record. Copy of the bio metric attendance sheets and performance report are attached as annexure..... **B & C.**

ATTESTED



4- That feeling aggrieved from the impugned Notification dated 15.5.2018, the petitioners preferred departmental appeals before the appellate authority No.2 but no response has yet been received so far though in light of clause-xiv of the transfer posting policy of the Provincial Government the appellate authority is bound to dispose of/ decide the departmental appeal of the petitioners one way or the other within the stipulated period of fifteen days. Copy of the departmental appeals and policy are attached as annexure.....D & E.

5- That petitioners having no other remedy filed the instant writ petition on the following grounds amongst the others.

GROUND:

A- That, the inaction of the respondents by not disposing the Departmental Appeal of the petitioner is against the Law, policy, facts and norms of natural justice.

B- That the petitioner has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973.

C- That the treatment meted out to the petitioners is a clear violation of the Fundamental Rights of the petitioners.

D- That the respondent Department acted in arbitrary and malafide manner by transferring the petitioners and as such the same is against the transfer/posting policy of the Provincial Government.

E- That according to Clause-XIV of the above mentioned policy the respondents are duty bound to dispose of the Departmental Appeal of the petitioner strictly within 15 days.

F- That the petitioners has been discriminated by the respondent Department on the subject noted above and as such the respondents violated the Principle of Natural Justice.

G- That transfer cannot be imposed as a punishment in light of the prevailing Rules and regulations, therefore the impugned Notification is not tenable and liable to be set aside.

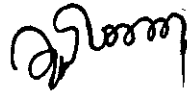
H- That the petitioner seeks permission to advance other grounds and proofs at the time of hearing.

ATTESTED

It is therefore, most humbly prayed that on acceptance of this writ petition the inaction of the respondent No.2 by not disposing/deciding the Departmental appeals of the petitioners may be declared as illegal, unconstitutional and ineffective upon the rights of the petitioner. That the respondent no.2 may please be directed to disposed of the Departmental appeal of the petitioner within the stipulated period laid down in clause-xiv of the Transfer/posting Policy of the Provincial Government. Any other remedy which this august Court deems fit that may also be awarded in favor of the petitioner.

Dated: 10.7.2018

PETITIONER



DILARAM KHAN & 1 OTHER

THROUGH:



NOOR MOHAMMAD KHATTAK



MUHAMMAD MAAZ MADNI,

ADVOCATES,

HIGH COURT PESHAWAR

VERIFICATION:

It is verified that no other earlier writ petition was filed between the parties.



DEPONENT

LIST OF BOOKS:

1. Constitution of Pakistan.
2. Services Laws Books.
3. Any other Case law as per need.

ATTESTED



23

BEFORE THE PESHAWAR HIGH COURT PESHAWAR

WRIT PETITION NO. 3630/2018

DILARAM KHAN

VS

GOVT: OF KPK

AFFIDAVIT

I Dilaram Khan S/O Nadir Khan R/O Mohallah Ghar Khel, Tehsil Pabbi, District Nowshera, do hereby solemnly affirm that the contents of this **writ petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

Dilaram Khan
DILARAM KHAN
(PETITIONER)

CNIC NO. 17201-2184371-3

NM
IDENTIFIED BY:
NOOR MOHAMMAD KHATTAK
ADVOCATE, HIGH COURT,
PESHAWAR

No: 3767
Certified that the above was verified on solemnly affirmed before me on this 10th day of July 18 Dilaram Khan s/o Nadir Khan Mohallah Ghar Khel who resides at Nowshera and is personally known to me.

ATTESTED

NM

NM
10/7/18

F-24

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

WRIT PETITION NO. _____ /2018

- 1- Mr. Dilaram Khan, Lecturer in Physics,
GPGC Nowshera under transfer to Government Degree College,
Daggar Buner.
- 2- Mr. Taimur Khan, Assistant Professor (Physics),
GPGC Nowshera under transfer to Government Degree College,
Kaki Buner.



..... Petitioners

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Higher Education, Achieves and Libraries Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director Higher Education Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The Principal Government Post Graduate College Nowshera.

..... Respondents

**WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF
PAKISTAN 1973 AS AMENDED UP TO DATE**

R/SHEWETH:
ON FACTS:

ATTESTED
22/05/2018

1- That, petitioners are the employees of the respondents Department and are serving as Lecturer and Assistant Professor respectively quite efficiently and up to the entire satisfaction of their superiors.

2- That, petitioners while performing their duties at Government Post Graduate College, Nowshera the impugned Notification was issued whereby petitioner No.1 was transferred to GDC Dager Buner and petitioner no.2 was transferred to GDC Kaki Bannu on administrative ground. Copy of the impugned Notification dated 15.5.2018 is attached as annex..... A.

ATTESTED

ATTESTED

That during service at GPGC Nowshera the petitioners have performed their duties regularly and their performance reports are 100% according to the college record. Copy of the bio metric, attendance sheets and performance report are attached as annexure..... B & C.

25

PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET

Court of.....

Case No.....of.....

Serial No. of Order of Proceedings	Date of Order of Proceedings	Order or other Proceedings with Signature of Judge.
1	2	3
	<p>ORDER 16.08.2018</p>	<p><u>Writ Petition No.3630-P/2018</u></p> <p>Present: Mr. Noor Muhammad Khattak, Adv., for Dilaram Khan etc., petitioners.</p> <p>*****</p> <p><u>SYED AFSAR SHAH, J.-</u> Dilaram Khan, the petitioners, through the instant constitutional petition, have asked for the issuance of an appropriate writ directing the respondents to decide their departmental representations / appeals, in light of Clause-xiv of the Transfer / Posting Policy of the Provincial Government.</p> <p>2. At the very outset the learned counsel appearing on behalf of the petitioners submitted at the bar that he would be satisfied, if a direction is given to the departmental authority to decide the appeals of the petitioners in the light of aforesaid provision of law. When so, we without touching the merits of the case,</p>

ATTESTED

ATTESTED

ATTESTED

POSTAL EXAMINER
PESHAWAR HIGH COURT

20 AUG 2018

lest it may prejudice the case of either party, would like to direct the departmental authority viz. respondent No.2 to decide the appeals of the petitioners strictly in accordance with law through a speaking order within a month positively, after receipt of this order. This writ petition is disposed of accordingly.

Announced.
16.08.2018

JUDGE

JUDGE

<p>3724</p> <p>State of Pk No. 207 Case Total Date of received by</p>	<p>2018/8/16</p> <p>2018/8/16</p> <p>2018/8/16</p>	<p>CERTIFIED TO BE TRUE COPY</p> <p>Examiner Peshawar High Court, Peshawar Authorised Under Article 87 of The Qanun-e-Shahadat Order 1984</p> <p>20 AUG 2018</p>
---	--	--

(Fayaz) (D.B. of Hon'ble Mr. Justice Syed Afsar Shah & Hon'ble Mr. Justice Ishfaq Ibrahim)

ATTESTED

[Signature]

ATTESTED

[Signature]



GOVERNMENT OF KHYBERPAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES & LIBRARIES DEPARTMENT
NO. SO (Lit) HED/1-675/WP No. 3630-P/2018 Dilaram & Taimur
Dated the Peshawar September 24th, 2018

To

The Director,
Higher Education, Khyber Pakhtunkhwa,
Peshawar (Fax# 9210215)

Subject: WP No.3630-P/2018 Mr. Dilaram Khan & Taimur Khan

Dear Sir,

I am directed to refer to this department letter of even number dated 31-08-2018 followed by reminder of 07-09-2018 on the subject noted above and once again to request kindly share progress so far been made on the directions of Honorable Peshawar High Court, Peshawar

"To direct the departmental authority viz respondent No.2 to decide the appeals of the petitioners strictly in accordance with law through a speaking order within a month positively, after receipt of this order. The writ petition is disposed of accordingly.

2. I am, therefore, directed to request to kindly pursuant to court directions comply within stipulated period of time please.

Yours faithfully,


Section Officer (Litigation)
PH # 091-92132501 FAX # 091-9210368

Endst: No. & date even.

Copy forwarded to the:

- 1) The Deputy Secretary (Colleges) Higher Education Department
- 2) PS to Secretary Higher Education, Archives & Libraries Deptt: Khyber Pakhtunkhwa
- 3) Master File

ATTESTED



Section Officer (Litigation)



29

GOVERNMENT OF KHYBERPAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES & LIBRARIES DEPARTMENT
NO. SO (Lit) HED/1-675/WP No. 3630-P/2018 Dilaram & Taimur
Dated the Peshawar September 7th, 2018

To

The Director,
Higher Education, Khyber Pakhtunkhwa,
Peshawar (Fax# 9210215)

Subject: WP No.3630-P/2018 Mr. Dilaram Khan & Taimur Khan

Dear Sir,

I am directed to refer to this department letter of even number dated 31-08-2018 on the subject noted above and to say that kindly share progress so far been made on the directions of Honorable Peshawar High Court, Peshawar that:

" To direct the departmental authority viz respondent No.2 to decide the appeals of the petitioners strictly in accordance with law through a speaking order within a month positively, after receipt of this order. The writ petition is deposited of accordingly.

2. I am, therefore, directed to request to kindly pursuant to court directions comply within stipulated period of time please.

Yours faithfully,

Section Officer (Litigation)
PH # 091-92132501 FAX # 091-9210368

Endst: No. & date even.

Copy forwarded to the:

- 1) The Deputy Secretary (Colleges) Higher Education Department
- 2) PS to Secretary Higher Education, Archives & Libraries Deptt: Khyber Pakhtunkhwa
- 3) Master File

ATTESTED

Section Officer (Litigation)



GOVERNMENT OF KHYBERPAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES & LIBRARIES DEPARTMENT
NO. SO (Lit) HED/1-675/WP No. 3630-P/2018 Dilaram & Taimur
Dated the Peshawar August 31st, 2018

To

The Director,
Higher Education, Khyber Pakhtunkhwa,
Peshawar (Fax# 9210215).

Subject: WP No.3630-P/2018 Mr. Dilaram Khan & Taimur Khan

Dear Sir,

I am directed to refer to the subject noted above and to annex herewith copy of Peshawar High Court, Peshawar order sheet dated 16-08-2018 along with writ petition with the request to kindly do comply with Peshawar High Court, Peshawar directions in letter & spirit within stipulated period of time please.

Yours faithfully,

[Signature]
Section Officer (Litigation)
PH # 091-92132501 FAX # 091-9210368

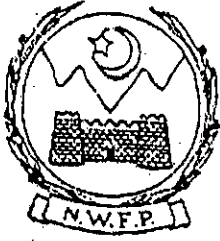
Endst: No. & date even.

Copy forwarded to the:

- 1) The Advocate General, Khyber Pakhtunkhwa, Peshawar High Court, Peshawar.
- 2) The Registrar, Peshawar High Court, Peshawar
- 3) The Deputy Secretary (Colleges) Higher Education Department along with copy of above.
- 4) The Section Officer (Lit-II) Establishment Department Khyber Pakhtunkhwa with reference to his letter No. SO(Lit-II)E&AD/2-560/2018 dated 29-08-2018
- 5) PS to Secretary Higher Education, Archives & Libraries Deptt: Khyber Pakhtunkhwa
- 6) Master File

ATTESTED

[Signature]
Section Officer (Litigation)



GOVERNMENT OF NWFP
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT
(Regulation Wing)

H-30

POSTING / TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT.

- i) All the posting/transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants
- ii) All Government servants are prohibited to exert political, Administrative or any other pressures upon the posting/transfer authorities for seeking posing/transfers of their choice and against the public interest.
- iii) All contract Government employees appointed against specific posts, can not be posted against any other post.
- iv) The normal tenure of posting shall be three years subject to the condition that for the officers/officials posted in unattractive areas the tenure shall be two years and for the hard areas the tenure shall be one year. The unattractive and hard areas will be notified by the Government.
- v) ¹{ }
- vi) While making postings/transfer from settled areas to FATA and vice-versa, specific approval of Governor, NWFP needs to be obtained
²While making postings/transfers of officers/officials up to BS-17, from settled areas to FATA and vice-versa approval of the Chief Secretary NWFP needs to be obtained. Whereas, in case of posting/transfer of officers in BS-18 and above, from settled areas to FATA and vice versa, specific approval of the Governor NWFP shall be obtained.
- vi (a) All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for atleast eighteen months in each grade. This should start from senior most scales/grades downwards in each scale/grade of each cadre.
- vii) Officers may be posted on executive/administrative posts in the Districts of their domicile except District Coördination Officers (D.C.Os) and DPOs/Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where the Police Station (Thaana) of his area/residence is situated.
- viii) No posting/transfers of the officer's/officials on detailment basis shall be made.
- ix) Regarding the posting of husband/wife, both in Provincial services, efforts where possible would be made to post such persons at one station subject to the public interest.
- x) All the posting/transferring authorities may facilitate the posting/transfer of the unmarried female government Servants at the station of the residence of their parents.

ATTESTED

Para-1(v) regarding months of March and July for posting/transfer and authorities for relaxation of ban deleted vide letter No. SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-6-2008. Consequently authorities competent under the NWFP Government Rules of Business, 1985, District Government Rules of Business 2001, Posting/Transfer Policy and other rules for the time being in force, allowed to make posting/transfer subject to observance of the policy and rules. Added vide Urdu circular letter No. SOR-VI(E&AD)1-4/2003, dated 21-09-2004

- xi) Officers/officials except DCOs and DPOs/SPs who are due to retire within one year may be posted on their option on posts in the Districts of their domicile and be allowed to serve there till the retirement.
DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales;
- xii) In terms of Rule-17(1) and (2) read with Schedule-III of the NWFP Government Rules of Business 1985, transfer of officers shown in column 1 of the following table shall be made by the authorities shown against each officer in column 2 thereof:

Outside the Secretariat		
1.	Officers of the all Pakistan Unified Group i.e. DMG, PSP including Provincial Police Officers in BPS-18 and above.	Chief Secretary in consultation with Establishment Department and Department concerned with the approval of the Chief Minister.
2.	Other officers in BPS-17 and above to be posted against scheduled posts, or posts normally held by the APUG, PCS(EG) and PCS(SG).	-do-
3.	Heads of Attached Departments and other Officers in B-19 & above in all the Departments.	-do-
In the Secretariat		
1.	Secretaries	Chief Secretary with the approval of the Chief Minister.
2.	Other Officers of and above the rank of Section Officers: a) Within the Same Department b) Within the Secretariat from one Department to another.	Secretary of the Department concerned. Chief secretary/Secretary Establishment.
3.	Officials up to the rank of Superintendent: a) Within the same Department b) To and from an Attached Department c) Within the Secretariat from one Department to another	Secretary of the Department concerned. Secretary of the Dept in consultation with Head of Attached Department concerned. Secretary (Establishment)

- xiii) While considering posting/transfer proposals all the concerned authorities shall keep in mind the following:
- a) To ensure the posting of proper persons on proper posts, the Performance Evaluation Report/annual confidential reports, past and present record of service, performance on post held presently and in the past and general reputation with focus on the integrity of the concerned officers/officials be considered.
- b) Tenure on present post shall also be taken into consideration and the posting/transfers shall be in the best public interest.

ATTESTED

[Handwritten signature]

[Handwritten signature]

(xiv) Government servants including District Govt. employees feeling aggrieved due to the orders of posting/transfer authorities may seek remedy from the next higher authority / the appointing authority as the case may be through an appeal to be submitted within seven days of the receipt of such orders. Such appeal shall be disposed of within fifteen days. The option of appeal against posting/ transfer orders could be exercised only in the following cases.

- i) Pre-mature posing/transfer or posting transfer in violation of the provisions of this policy.
- ii) Serious and grave personal (humanitarian) grounds.

2. To streamline the postings/transfers in the District Government and to remove any irritant/confusions in this regard the provision of Rule 25 of the North West Frontier Province District Government Rules of Business 2001 read with schedule - IV thereof is referred. As per schedule-IV the posting/transferring authorities for the officers/officials shown against each are as under:-

S. No.	Officers	Authority
1.	Posting of District Coordination Officer and Executive District Officer in a District.	Provincial Government.
2.	Posting of District Police Officer.	Provincial Government
3.	Other Officers in BPS-17 and above posted in the District.	Provincial Government
4.	Official in BPS-16 and below	Executive District Officer in consultation with District Coordination Officer.

3. As per Rule 25(2) of the Rules mentioned above the District Coordination Department shall consult the Government if it is proposed to:

- a) Transfer the holder of a tenure post before the completion of his tenure or extend the period of his tenure.
- b) Require an officer to hold charge of more than one post for a period exceeding two months.

4. I am further directed to request that the above noted policy may be strictly observed /implemented.

All concerned are requested to ensure that tenures of the concerned officers/officials are invariably mentioned in summaries submitted to the Competent Authorities for Posting/Transfer.
{Authority: Letter No: SOR-VI/E&AD/1-4/2003 dated 24-6-2003}.

ATTESTED

It has been decided by the Provincial Government that posting/transfer orders of all the officers up to BS-19 except Heads of Attached Departments irrespective of grades will be notified by the concerned Administrative Departments with prior approval of the Competent Authority obtained on the Summary. The Notifications/orders should be issued as per specimen given below for guidance.

All posting/transfer orders of BS-20 and above and Heads of Attached Departments (HAD) shall be issued by the Establishment Department and the Administrative Departments shall send approved Summaries to E&A Department for issuance of Notifications.

VAKALATNAMA

Before the Khyber Pakhtunkhwa Service Tribunal
Peshawar

~~Appellant~~ No. _____ /2018

Taimur Khan

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Education Department

(RESPONDENT)
(DEFENDANT)

I/We *Taimur Khan*

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. ____ / ____ /2018

Taimur Khan
CLIENT

[Signature]
ACCEPTED
NOOR MOHAMMAD KHATTAK

[Signature]
&
MUHAMMAD MAAZ MADNI
ADVOCATES

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.
Phone: 091-2211391
Mobile No.0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SA#1291/2018

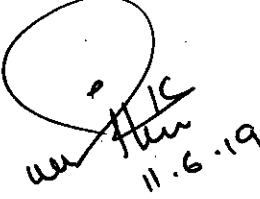
Taimur Khan.....Appellant

Versus

Govt of Khyber Pakhtunkhwa,
Through Secretary Higher Education
Department.....Respondents

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11.6.19
Respondents

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SA#1291/2018

Taimur Khan.....Appellant

Versus

Govt of Khyber Pakhtunkhwa,
Through Secretary Higher Education
Department.....Respondents

AFFIDAVIT

I, Irfan Ullah Assistant Director, (Litigation) Higher Education Department do hereby declare and affirm on oath that the contents of Para Wise Comments are correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Court.

Identified by:

for
Ullah
12.6.19

Deponent
11101-6409112-3

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

S.A # 1291/2018

Taimur Khan.....Appellant

Versus

Govt. of Khyber Pakhtunkhwa

Through Secretary Higher Education Department

and others,..... Respondents

SUBJECT: PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO.1, 2& 3.

Respectfully Sheweth: -

Preliminary Objections:-

1. That the appellant has got neither cause of action nor locus standi to file the instant Service Appeal.
2. That the appellant has not come to this Tribunal with clean hands and is trying to conceal material facts.
3. Under section 10 of civil servant Act, 1973 a civil servant is liable to be transferred anywhere in the Province or outside of the Province. Moreover, the appellant was transferred under report, recommended by the Principal, GPGC Nowshera.
4. That the Appeal in hand is hit by doctrine of laches.
5. That the appellant is estopped by his own conduct to file the instant Service Appeal.

Facts: -

- 1) Correct to the extent that the appellant is working as Assistant Professor in Higher Education Department but as far as his efficiency and performance is concerned, the appellant has been transferred under report which shows that his Superiors were not satisfied from the performance of the appellant.
- 2) Incorrect as already explained in the preceding para.
- 3) Incorrect. The respondent No. 4 reported to the department that two officers namely Taimur Khan (appellant) and Dilaram Khan may be transferred due to their repeated irresponsible approach (Copy of the letter is attached as **Annex-A**). Consequently the appellant has been transferred to Government Degree College, Kakki Bannu by the Competent Authority.
- 4) The appellant has been transferred under report and has mature stay because he is working at GPGC, Nowshera since August, 2013.
- 5) Correct to the extent that the appellant filed departmental appeal which is regretted by the Competent Authority (Copy is attached as **Annex-B**).
- 6) Already explained in the preceding paras.
- 7) Needs no comments.

Grounds: -

- A. Incorrect. That transfer order has been issued in accordance with law and rules.
- B. Incorrect as explained in the preceding paras of facts and grounds.
- C. Incorrect as explained in the preceding paras of facts and grounds.
- D. Incorrect as explained in the preceding paras of facts and grounds.
- E. Incorrect as explained in the preceding paras of facts and grounds.
- F. Incorrect as explained in the preceding paras of facts and grounds.
- G. Incorrect as explained in the preceding paras of facts and grounds.
- H. Incorrect as explained in the preceding paras of facts and grounds.
- I. That respondents may be allowed to raise additional grounds at the time of arguments.

Prayers: -

It is, therefore, humbly prayed that the instant Service Appeal is based on misconception/mis-statement, hence may graciously be dismissed with appropriate costs.



Chief Secretary,
Govt. of Khyber Pakhtunkhwa
Respondent No. 1



Secretary,
Higher Education Department
Respondent No. 2



Director,
Higher Education Department
Respondent No. 3

3
25/5/19.

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

S.A # 1291/2018

Taimur Khan.....Appellant

Versus

Govt. of Khyber Pakhtunkhwa
Through Secretary Higher Education Department
and others,..... Respondents

**SUBJECT: REPLY TO STAY APPLICATION ON BEHALF OF RESPONDENTS NO.
1, 2, 3 AND 4**

Respectfully Sheweth: -

Reply

1. Correct. That the mentioned appeal is pending for adjudication and next date of hearing is 11/06/2019.
2. Correct.
3. Incorrect. That all three ingredients necessary for stay is not in favour of the appellant because he has been transferred under report and has also mature stay at Govt: Postgraduate College Nowshera.
4. Incorrect, as already explained in the parawise comments of the instant service appeal.

Prayers: -

It is, therefore, humbly prayed that the application for suspension of operation of the impugned order may be set aside.


Director,

Higher Education Department
Respondent No. 3

OFFICE OF THE PRINCIPAL
GOVT. POSTGRADUATE COLLEGE
NOWSHERA CANTT

No. (2304) Dated (13/03/2018)

Anno-A

Contacts:
Pho# 0923-9220142
Cell: +92333-9404351
Cell: +92301-8109007
Cell: +92335-2175670
Email: gpgcnowsheera6@gmail.com
Email: m.ishaq1972@gmail.com



To,

Director
Higher Education
Khyter Pakhturkhwa Peshawar

SUBJECT: TRANSFER UNDER REPORT

Sir,

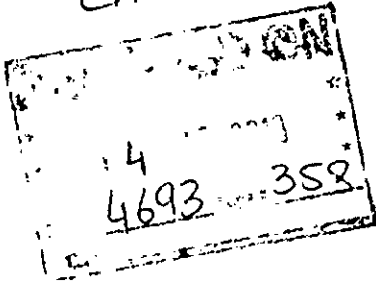
Reference to the subject cited above, you are requested to transfer the following teaching staff of the college somewhere else due to their repeated irresponsible approach.

S. No	NAME	DESIGNATION
1	TA. MUR KHAN	Assistart Professor of Physics
2	DIL ARAM KHAN	Lecturer in Physics

Principal
Govt. Postgraduate College
Nowshera

(Signature)

CA-I



o/c



Annex - B

**GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT**

Dated Peshawar the 01.11.2018.

ORDER

No. 50 (C-II)/HED/13-17/2018. WHEREAS Taimur Khan, Assistant Professor of Physics (BS-18) and Dllaram Khan, Lecturer in Physics (BS-17), Govt. Postgraduate College, Nowshera were transferred on the complaint of the Principal to GDC Kaki Bara and GDC Daggar Buner respectively on 15.05.2018, the officers have been relieved of their duties by the Principal concerned on 08.06.2018.

2. **AND WHEREAS** The officers aggrieved from the above order submitted a departmental appeal to review the order, which was not considered by the Department being meritless and hold no grounds.

3. **AND WHEREAS** The officers filed a writ petition in Hon'ble Court with the plea that impugned order is against the policy and it shall be considered according to the policy.

4. **NOW WHEREAS** The Hon'ble Court directed the respondent No.2 i.e Secretary, Higher Education Department to decide the appeals of the petitioners strictly in accordance with law through a speaking order within a month positively. after receipt of this order.

5. **NOW THEREFORE** The Department in compliance of Court order has reviewed the appeal of the petitioners within parameters of the relevant rules/Policy and having considered evidence on record is convinced that impugned order was issued in accordance with the rules/policy and appeal being devoid of merits is not maintainable & regrets the same.

Endst: No. & Date Even.

Copy for further necessary action is forwarded to the:-

1. Director Higher Education, Khyber Pakhtunkhwa, Peshawar.
2. Section Officer (Litigation), Higher Education Department.
3. Principal concerned Govt. College.
4. Officer concerned.
5. PS to Secretary, Higher Education Department.

SECRETARY TO GOVT. OF
KHYBER PAKHTUNKHWA
HIGHER EDUCATION DEPARTMENT

(MUHAMMAD FAYAZ KHAN)
SECTION OFFICER (COLLEGES-II)

CA-11

M

Q/n/ik

5012 196