

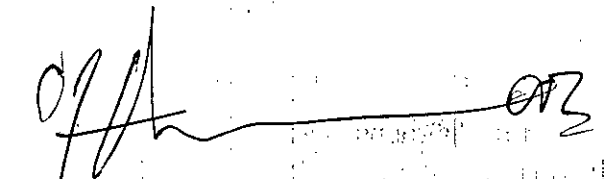
20.12.2016

Counsel for the appellant and Mr. Muhammad Jan, GP 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 Request accepted and the appeal in hand is therefore, dismissed as withdrawn. File be consigned to the record room.

ANNOUNCED:

20.12.2016

  
(ASHFAQUE TAJ)  
MEMBER

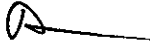
  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

*Appellant Nayimul Hassan: I want to wish draw my parent appeal.  
Counsel for appellant Muhammad (and his)  
20/12/16.  
Mr. Aamir*

293/14

11.11.2015

Counsel for the appellant and Mr. Ziaullah, GP with Khursheed Khan, SO for the respondents present. Since court time is over, therefore, case to come up for arguments on 14-1-2016.

  
Member

  
Member

14.01.2016

Appellant in person and Mr. Muhammad Jan, GP for respondents present. Appellant submitted that his counsel is not available today and requested for adjournment. To come up for arguments on 28-4-16.

  
MEMBER

  
MEMBER

28.04.2016

None present for appellant. Mr. Ziaullah, GP for official respondents No. 1 to 3 present. Arguments could not be heard due to non-availability of learned counsel for the appellant. To come up for arguments on 10.8.2016.


  
Member

  
Member

10.08.2016

No one is present on behalf of the appellant. Mr. Ziaullah, GP for respondents present. Notices be issued to the appellant and his counsel. To come up for arguments on 20-12-16.

  
Member

  
Member

23.09.2014

Appellant in person and Mr. Muhammad Adeel Butt, AAG with Muhammad Irfan, ADO for the respondents present and reply filed. Copy handed over to appellant for submission of rejoinder on 15.12.2014. Notice to respondent No.4 for reply on the date fixed.



MEMBER

15.12.2014

Clerk to counsel for the appellant and Mr. Muhammad Jan, GP with Muhammad Irfan, ADO for the official respondents present. None is available on behalf of private respondent No. 4. The Tribunal is incomplete. To come up for the same on 20.1.2015.



READER

3.3.2015

Counsel for the appellant and Addl. AG with Inayatullah, ADO for the respondents present. Counsel for the appellant does not want to file rejoinder. To come up for arguments on 27.7.2015.



MEMBER

27.07.2015

Appellant in person, M/S Javid Ahmad, Supdt, Yousaf Khan, DDEO and Muhammad Irfan, ADO alongwith Muhammad Jan, GP for the respondents present. Arguments could not be due to incomplete bench, therefore the case is adjourned to 11.11.2015 for arguments before D.B.




Chairman

Appeal No. 293/2014  
Mr. Najamul Hassan.

3.

28.03.2014

Counsel for the appellant has submitted an application for early hearing. Notice be issued to the appellant/counsel for the appellant. To come up for arguments on early hearing application on 03.04.2014.

  
Member

03.04.2014

Counsel for the appellant present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Against the impugned order dated 04.11.2013, he filed departmental appeal on 22.11.2013, which has not been responded within the statutory period of 90 days, hence the present appeal on 28.02.2014. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notices be issued to the respondents for submission of written reply/comments on 16.06.2014.

4.  
Appellant deposited  
Process fee & Security  
As per Bank Receipt  
attached with file

  
Member

03.04.2014

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

  
Chairman

16.6.2014


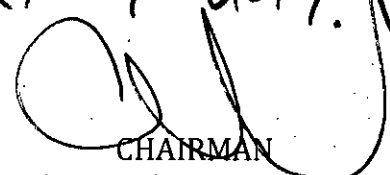
Appellant in person and AAG with Inayatullah, ADO and Khursheed Khan, SO for the respondents present and requested for further time. To come up for written reply on 23.09.2014.

  
MEMBER

Form- A  
FORM OF ORDER SHEET

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

Case No. 293/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	28/02/2014	<p>The appeal of Mr. Najmaul Hassan presented today by Muhammad Khaled Israr Advocate, may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	4-3-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>21-4-2014</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR

Service Appeal No. 293 /2014

Najmul Hassan

.....Appellant

Versus

The Govt. of KPK etc.

.....Respondents

INDEX

S.No	Description of Documents	Annexure	Pages
1.	Memo of Service Appeal		1-7
2.	Affidavit		8
3.	Copy of the Office Order dated 4/11/2013	A	9
4.	Copy of Departmental Appeal dated 22/11/2013	B	10
5.	Wakalat Nama		11

  
Appellant

Through

  
Muhammad Khalid Israr

&

  
Barrister Mian Tajamul Shah  
Advocates

17-B, Haroon Mansion,  
Khyber Bazar, Peshawar.

Cell # 0300-5845943

Dated: \_\_/2/2014

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

**Service Appeal No. 293 /2014**

Najmul Hassan S/O Gul Pasand,  
Presently serving at Govt. High School,  
Mohib Banda, District Nowshera.....**Appellant**

301  
28/2/14

Versus

1. The Govt. of Khyber Pakhtunkhwa  
through Secretary, Elementary & Secondary  
Education, Civil Secretariat, Peshawar.
2. The Director Education,  
Elementary & Secondary Education,  
Dabgari, Peshawar.
3. The District Education Officer (Male),  
Nowshera.
4. Mohammad Irshad Khan,  
CT Teacher at  
Govt. High School Wazir Ghari,  
District Nowshera.....**Respondents**

28/2/14

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**SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 04/11/2013 WHEREBY THE APPELLANT HAS BEEN TRANSFERRED FROM GOVT. HIGH SCHOOL, WAZIR GHARI TO GOVT. HIGH SCHOOL, MOHIB BANDA NOWSHERA AND AGAINST WHICH THE DEPARTMENTAL APPEAL OF THE APPELLANT DATED 22/11/2013 HAS NOT BEEN RESPONDED AFTER LAPSE OF STATUTORY PERIOD.**

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**PRAYER:**

On acceptance of the instant appeal, the Impugned Transfer Order dated 04/11/2013 may graciously be set aside and appellant be allowed to serve at Govt. High School Wazir Ghari, Nowshera.

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Respectfully Sheweth,

1. That the Appellant was serving as CT Teacher (BPS-15) at Govt. High School, Wazir Ghari, District Nowshera with utmost satisfaction of his high ups.
2. That the Appellant was performing his duty efficiently and punctually and there was



neither any complaint against him nor the Appellant was facing any inquiry as the Appellant having unblemished service record.

3. That on 4/11/2013, through an Office Order No. 6263-67, the Respondent No. 3 has transferred the Appellant from Govt. High School Wazir Ghari to Govt. High School Mohib Banda, Nowshera on disciplinary ground. Copy of Office Order dated 4/11/2013 is enclosed as (Annexure-A).
4. That a copy of the said Order passed by Respondent No. 3 was also sent to PS to Minister for Education and local MPA (PK-12) namely Mian Khaliqur Rehman.
5. That against the said Office Order, the Appellant submitted Departmental Appeal to the Respondent No. 2 on 22/11/2013 which after lapse of statutory period, no response whatsoever has been given to the Appellant. Copy of the Departmental Appeal of the

Appellant dated 22/11/2013 is enclosed as  
(Annexure-B).

6. That the Appellant aggrieved from the impugned Office Order dated 04/11/2013, having got no other efficacious/adequate remedy, now approaches this Honourable Tribunal on the following grounds amongst the others:-

**GROUND:**

- A. That the impugned Office Order dated 4/11/2013 is void and ineffective.
- B. That the same is against the principal of natural justice also.
- C. That the said impugned Transfer Order of the appellant is quite illegal, unlawful, without authority/jurisdiction as there was neither any complaint nor any inquiry against the Appellant is pending nor the

Appellant has violated any rule/regulation of the department rather the Appellant was performing his duty efficiently and punctually, therefore, the said Office Order is liable to be setaside.

- D. That the said order is not in the public interest but as result of undue and illegal political pressure and the Appellant has been punished with no fault at his part.
- E. That it has also been mentioned therein the transfer policy that no civil servant will be allowed to exert any political pressure in the matters with regard to the posting/transfer matters whereas the Respondent's department itself has defied and bulldozed the above said policy by making the transfer of the Appellant on the political pressure because the impugned Order tend with malafide as the copy of the same was forwarded to the Minister for Elementary and Secondary Education, Khyber

Pakhuntkhwa and local MPA (PK-12) which shows that the Respondent No. 4 is the recommendee of the local MPA and the Minister of Education obliged the said Respondent.

- F. That the Respondent's department must follow the observations/decisions passed by the Apex Court that in the matters of the Civil Servants posting/transfer, no political pressure should be admitted.
- G. That the Respondent's department cannot transfer the services of any Civil Servant on disciplinary ground and if certain allegations are in field against a Civil Servant, then the department should proceed against a Civil Servant according to law instead of transferring him and displacing him from one place to another.
- H. That the impugned Office Order is best example of favouritism and nepotism because the private Respondent No. 4 is

placed him from his political master with a ground taken by Respondent No. 3 which is totally alien for the prevailing posting/transfer policy.

It is, therefore, humbly prayed that On acceptance of the instant appeal, the Impugned Transfer Order dated 04/11/2013 may graciously be setaside and the Appellant may please be allowed to serve at Govt. High School, Wazir Ghari, Nowshera.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for may also be granted to appellant.

Through

  
Appellant

  
Mohammad Khalid Israr

&

  
Barrister Mian Tajamul Shah  
Advocates Peshawar

Dated: \_\_/02/2014

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

**Service Appeal No. \_\_\_\_\_/2014**

Najmul Hassan .....Appellant

Versus

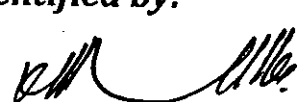
The Govt. of KPK & others.....Respondents

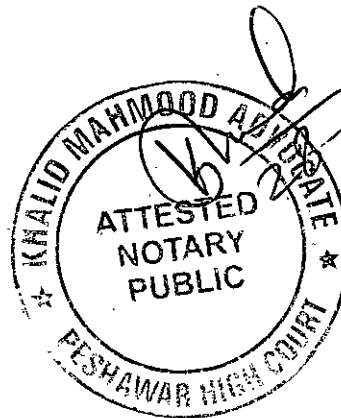
**AFFIDAVIT**

I, Mst. Shaukat Ara D/O Suleman Shah,  
Presently serving at Govt. Girls Primary School,  
Khan Sher Ghari, District Nowshera. do hereby  
solemnly affirm and declare that the contents of the  
accompanying Appeal are true and correct to the best  
of my knowledge and belief and nothing has been  
concealed from this Honourable Court.

  
Deponent

**Identified by:**

  
Muhammad Khalid Israr  
Advocate





*Approved by*  
*Annexure "A"*  
*P-9.*

**OFFICE OF THE  
DISTRICT EDUCATION OFFICER (MALE)  
NOWSHERA**  
(Phone & Fax # 0923-9220228)

**TRANSFER ORDER**

The Competent Authority is pleased to order the following posting/transfers in the interest of public service with immediate effect.

S.No	Name & Designation	From	To	Remarks
1	Najm-ul- Hasan CT	GHS Wazir Garhi	GHS Mohib Banda	On Disciplinary grounds
2	Muhammad Irshad Khan CT	GHS Mohib Banda	GHS Wazir Garhi	Vice S.No.1


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

(Muhammad Uzair Ali)  
District Education Officer (M)  
Nowshera

Endstt: No 6263-67 Dated: 04/11/2013

Copy forwarded for information to the:-

- 1: PS to the Minister for Ele & Secy Education Khyber Pakhtunkhwa.
- 2: Khaleeq-ur-Rahman Khattak MPA PK-12 Khyber Pakhtunkhwa.
- 3: Director Ele & Secy Education Khyber Pakhtunkhwa Peshawar
- 4: Senior District Accounts Officer Nowshera.
- 5: Head Masters schools concerned.
- 6: Officials concerned.
- 7: Office copy.

  
District Education Officer (M)  
Nowshera

To

The Director,  
E & S Edu; Deptt;  
Khyber Pakhtoon Khwa.

Attested  
by Mr

Annexure "B"  
P-10

Subject: Department appeal / Representation against the order dated 04/11/013 whereby the applicant has been transfer from GHS Wazir Garhi to GHS Mchib Banda, Nowshera vide office order No. 6263-67.

Respected Sir,

With regards it is humbly stated that the applicant Mr. Najmul Hassan (C.T) has been transferred from his native village's School without any complaint from the public, as he was performing his duties with great zeal and vigour.

I am not involved in any corrupt activities nor any inquiry has been pending against me, I am regularly and punctually performing my duties with utmost satisfaction of my high ups. I am an old and chronic patient of liver disease also.

It is therefore most humbly requested that the transfer order dated 4/11/013 may kindly be cancelled.

with regards,

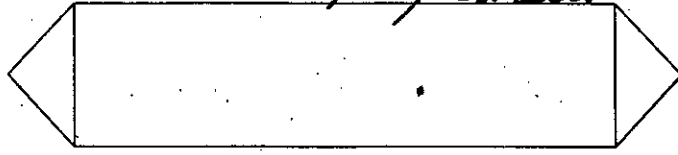
Yours faithfully,  
Mr. Najmul Hassan (C.T),  
G.H.S Wazir Garhi,  
Nowshera.

Dated: 22-11-13  
W.A.T.O

GHS  
Mchib Banda  
Nowshera



Before The Services Tribunal KPK *بعد الیہ*



Appellant

Court of KPK  
etc.

2ء منجانب

بنام *Najmul Hassan s/o Gul Pasand*  
CT (BPS15)

مورخہ

مقدمہ

دعویٰ  
جزم

## باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

*Muhammad Ichalid Israr Advocate* کیلئے *Peshawer* آن مقام *Peshawer*

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک دروپہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

Attested  
Accepted by

20

ماہ

المرقوم

*ICM*

وہ *Najmul Hassan* کے لئے منظور ہے۔  
مقام

Before The Service Tribunal KPK Peshawar.

Najm ul Hassan

v/s The Govt. of KPK etc.

Application for early fixation of the  
above title appeal.

Respectfully Sheweth ::

- 1) That the above titled appeal is pending before this Tribunal for Preliminary hearing on 21/4/14.
- 2) That the appeal is fixed on 21/4/14 need early fixation due to the reason, that the transfer and matter ~~over~~ ~~the~~ ~~matter~~ need early fixation
- 3) That there is no <sup>legal</sup> hurdle involved for early fixation of the above titled appeal.

It is therefore most humbly prayed that on acceptance of this appeal the above titled appeal may pleased be fixed as early as possible for hearing before Preliminary bench.

Date: 20/3/14

Appellant

Through

RM MCo

Muhammad Khalid Issar Advocate

“A”

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
JUDICIAL COMPLEX (OLD), KHYBER ROAD,  
PESHAWAR.

PH

No.

APPEAL No. 293 of 2014

Najmul Hassan

Appellant/Petitioner

Versus

Deputy Secretary Edu (ESSE) Peshawar  
RESPONDENT(S)

✓  
Notice to Appellant/Petitioner

Najmul Hassan s/o Gul Rasool

Presently serving at Govt High School  
Mohob Band Distt Nowshera.

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 3-6-2014 at 8:00 AM

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR**

Appeal No 293/2014

Mr.

**Mr. Najmul Hassan** ..... **Appellant**

**VERSUS**

1- Secretary Education, & others.

..... **Respondents**

**Respectively Sheweth**

**Written comments/reply on behalf of respondent No 1, 2, 3.**

**Preliminary Objections**

1. That the Appellant has no cause of action/locus standi to file the instant appeal.
2. That the present Appeal is bad for non-joinder and mis joinder of necessary parties.
3. That the instant appeal is badly time barred.
4. That the appellant has concealed material facts from this Honorable Tribunal.
5. That the appellant is estopped by his own conduct, by deed and by law to file the instant appeal.
6. That the instant appeal is barred by law.

**On Facts**

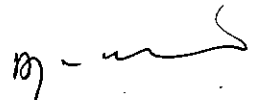
1. Pertains to the Appellant record.
2. Incorrect. There were verbal complaints against the appellant from the office of the Head Master of GHS Wazir Ghari and community also. The then DEO (M) Nowshera visited the said school and enquired in to the matter. Thereafter the then DEO issued transfer order of the appellant in the best public interest. The appellant has also completed his tenure in the said school.
3. The appellant is a civil servant and under section-10 of the civil servant Act, the appellant is liable to serve anywhere. Moreover the transfer order issued in the best public interest.
4. No Comments.
5. No comments.
6. Incorrect. The impugned order is passed by the competent authority the Appellant was got no cause of action to challenge in order passed in accordance with law and his appeal is liable to be dismissed on the following grounds.

**Grounds:**

- A. Incorrect. The office order dated. 04/11/2013 is according to law, rules and policy.
- B. Incorrect. The Act of respondent is according to the principle of justice.
- C. Incorrect. The said transfer order is legal and passed by competent authority.
- D. Incorrect. The transfer order was passed in best public interest. There was no political motivation and pressure on respondent.
- E. Incorrect. The respondent has never bulldozed the transfer/ posting policy rather issued the transfer order of the Appellant in accordance with the same. Moreover the transfer order was issued in public interest and no political pressure was exerted on respondent. The respondent acted in accordance with a law and rules on subject.
- F. The respondent department always follows the observation/ decision passed by the apex court and did not admit political pressure.
- G. Incorrect. The impugned order is passed in public interest.
- H. Incorrect. The respondent acted as per law and rules without any favoritism and nepotism.

It is therefore, requested before your honor that the present appeal is against the facts and without lawful authority, may kindly be dismissed with cost.

**Respondent No.1**

  
Secretary (E&S) Educ; Department,  
Govt. of KPK.

**Respondent No.2&3**

  
District Education Officer (F)  
Nowshera

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR**

Appeal No 293/2014

Mr. Naimul Hassan .....Appellant

VERSUS

1- Secretary Education, & others.

..... Respondents

**AFFIDAVITE**

I Inam Khan (Toru) District Education Officer (M) Nowshera do solemnly affirmed and declare on oath that the contents of Par wise comments/ reply on behalf of respondent are true and correct to the best of my knowledge and nothing has been concealed from this Honourable Tribunal.

  
Deponent