

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

SERVICE APPEAL NO. 621/2013

Date of institution ... 9.4.2013
Date of judgment 7.3.2014

Mst. Sajida Begum SST,
JICA Model School, Hayatabad Peshawar..... (Appellant)

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Secretary, E&SE, KPK, Peshawar.
2. Director, E&SE, KPK, Peshawar.
3. District Education Officer, E&SE, Peshawar.
4. Ulfat Begum SST, GGHS No. 2 Peshawar Cantt.(Respondents)

APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, AGAINST
THE OFFICE ORDER DATED 06.03.2013, WHEREBY THE
APPELLANT HAS BEEN TRANSFERRED FROM JICA MODEL
SCHOOL HAYATABAD, PESHAWAR TO GGHS NO. 2
PESHAWAR CANTT. WHILE RESPONDENT NO.4 HAS BEEN
TRANSFERRED VICE THE APPELLANT, AGAINST WHICH
HER DEPARTMENTAL APPEAL DATED 29.03.2013, HAS
ALSO BEEN REJECTED VIDE ORDER DATED 05.04.2013.

Mr. Sajid Amin,
Advocate.

For Appellant

Mr. Usman Ghani,
Senior Govt. Pleader
Mr. Shakeel Ahmad,
Advocate.

For official respondents
For private respondent No.4

Mr. Qalandar Ali Khan
Mr. Muhammad Aamir Nazir.

Chairman
Member

JUDGMENT

QALANDAR ALI KHAN, CHAIRMAN: This appeal by Mst.Sajida

Begum, SST (appellant) is directed against her transfer from JICA Model School, Hayatabad, Peshawar to GGHS No.2 Peshawar Cantt: vice Ulfat Begum SST (private respondent No.4) who was transferred to JICA Model School, vide order dated 6.3.2013. The appellant impugned the order dated 6.3.2013 on the twin grounds of non-completion of tenure in accordance with the Government policy/rules and use of political influence by private respondent No.4.

2. In her appeal, the appellant claimed that after serving the respondent-department for around 14 years at different stations, outside her home town, and even remaining in surplus pool for quite some time, she was transferred to JICA Model Girls Primary School, Hayatabad, Peshawar, vide order dated 30.4.2012; but before completion of even one year on the post, she was transferred to GGHS No.2 Peshawar Cantt., not in the public interest, but on considerations other than merit and on political motivation.

3. The appeal was resisted both by the official as well as private respondent No.4, and they defended the transfer on the grounds that the same was on merit and in the public interest and that no political pressure was exerted by private respondent No.4 for her transfer and posting. Private respondent No.4 alleged that the appellant belonged to district Bannu, therefore, she could not claim that she remained posted outside her home town, as she herself secured her transfer from Bannu to Peshawar after initially serving in Bannu for a short period. The respondent also alleged that the appellant, by using political influence, has always secured her posting on non-teaching posts and had hardly performed her actual/basic duty on teaching posts. The respondent pointed out that the appellant was transferred within the same district i.e. Peshawar, therefore, she had no cause of action to lodge this appeal against her transfer. The respondents claimed that transfer was incidence of service and could be made at any time and anywhere throughout the province.

4. Arguments of the learned counsel for the appellant, learned Sr.G.P and learned counsel for private respondent No.4 heard, and record perused.

5. The appellant was posted at JICA Model Girls Primary School, Hayatabad, Peshawar vide order dated 30.4.2012, and transferred there-from and posted at GGHS No.2 Peshawar Cantt: vide order dated 6.3.2013 i.e. within a year, and, thus, before completion of normal tenure. On the direction of the Tribunal, the respondent-department produced record of office note leading to the impugned transfer order, showing the desire of Minister Education KPK to transfer private respondent No.4 from GGHS No.2 Peshawar Cantt: to JICA Model School, Hayatabad. As such, there appears

an element of political influence, especially, when no reason, whatsoever, let alone compelling reason, has been shown for premature transfer of the appellant; as the record clearly suggests the impugned transfer order in pursuance of the desire of the Minister Education.

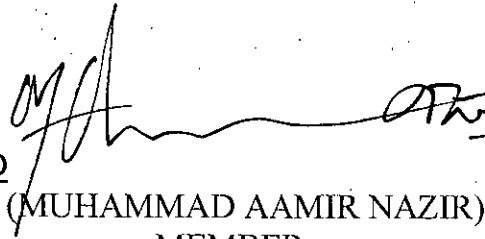
6. The respondents, particularly private respondent No.4, has, on the other hand, alleged that the appellant belonged to Bannu and that she always exerted political pressure for posting against non-teaching posts and further that she was transferred/posted in the same city i.e. Peshawar.

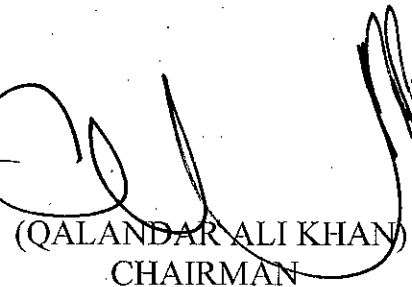
7. However, the learned counsel for the appellant urged that the DEO, E&SE, Peshawar was the competent authority to make the transfer order, therefore, the impugned transfer order was made by an incompetent authority. This contention was repudiated by the respondents on the ground that the original authority of transfer in respect of the appellant and private respondent vested in the Director of Education, KPK, who had delegated the same to DEO, E&SE, Peshawar, and that the original authority could always exercise his original powers notwithstanding delegation of such powers to his subordinate authority.

8. In any case, the fact remains that the same authority i.e. Director Education, KPK, Peshawar, passed the impugned transfer order and also rejected departmental appeal of the appellant vide letter dated 5.4.2013, which is in clear violation of the law/rules, as appellate authority in such a case was the next higher authority i.e. Secretary Education, KPK. The contention that appeal was addressed to the Directorate of Elementary & Secondary Education, Khyber Pakhtunkhwa therefore the Director of Education had to dispose of the departmental appeal, is not valid on the simple ground that in such a case the Directorate of E&SE, KPK, was legally bound to forward/refer the appeal to the appellate authority i.e. Secretary Education, KPK, Peshawar. Consequently, the rejection of the departmental appeal by the Director Education vide letter dated 5.4.2013 is without lawful authority, hence not maintainable under the law.

9. As such, on the partial acceptance of the appeal, the departmental appeal of the appellant dated 29.3.2013, preferred against the impugned transfer order dated 6.3.2013, after dismissal of Writ Petition of the appellant by an Hon'ble Bench of the Peshawar High Court, Peshawar vide order 25.3.2013, is remanded/sent back to the appellate authority i.e. Secretary Education, KPK for decision afresh in accordance with law while furnishing reasons in the light of provision of section 24-A(2) of the General Clauses Act, 1897, within reasonable time, but in no case beyond the period prescribed by the law. There shall, however, be no order as to costs.

ANNOUNCED
07.03.2014


(MUHAMMAD AAMIR NAZIR)
MEMBER


(QALANDAR ALI KHAN)
CHAIRMAN

07.03.2014

Appellant with counsel, M/S. Khurshid Khan, S.O for respondent No.1 and Mosam Khan, A.D for respondent No.2 with Mr.Usman Ghani, Senior Govt.Pleader for official respondents No.1 to 3 and counsel for private respondent No.4 present. Arguments heard and record perused.

Vide detailed judgment of today, placed on file, on the partial acceptance of the appeal, the departmental appeal of the appellant dated 29.3.2013, preferred against the impugned transfer order dated 6.3.2013, after dismissal of Writ Petition of the appellant by an Hon'ble Bench of the Peshawar High Court, Peshawar, vide order 25.3.2013, is remanded/sent back to the appellate authority i.e. Secretary Education, KPK for decision afresh in accordance with law while furnishing reasons in the light of provision of section 24-A(2) of the General Clauses Act, 1897, within reasonable time, but in no case beyond the period prescribed by the law. There shall, however, be no order as to costs.

ANNOUNCED
7.3.2014


MEMBER


CHAIRMAN

09.01.2014

Appellant with counsel (Mr. Sajid Amin, Advocate), M/S Khurshid Khan, SO for respondent No. 1 and Mosam Khan, AD for respondent No. 2 with AAG for official respondents No. 1 to 3 and counsel for private respondent No. 4 present. Representative of respondent No. 2 produced photo copies of the relevant record, which are placed on file. Further arguments could not be heard due to incomplete bench owing to indisposition of learned Member (Mr. Muhammad Aamir Nazir). The learned counsel for the appellant and private respondent No. 4 requested for fixation of appeal for arguments on merits of the appeal and a short date. To come up for arguments on the appeal on 28.1.2014.


Chairman

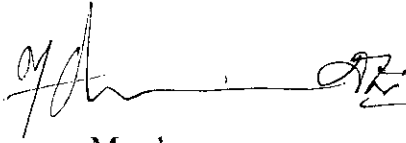
28.01.2014

Appellant in person, M/S Khurshid Khan, S.O for respondent No.1, Mosam Khan, A.D for respondents No.2 & 3 with AAG and counsel for private respondent No.4 present. Arguments could not be heard, and request for adjournment made on behalf of the appellant due to pre-occupation of her counsel in the High Court. To come up for arguments or in the alternative for written arguments on 7.3.2014.


Chairman

05.12.2013

Appellant with counsel, Mr. Mosam Khan, AD for respondent No. 2 with AAG for official respondents No. 1 to 3 and counsel for private respondent No. 4 present. Replication/rejoinder received on behalf of appellant, copies whereof are handed over to the learned AAG and learned counsel for private respondent No. 4. Arguments partly heard. During the course of arguments, a need was felt to ascertain from office record about the authority competent to make transfer of SST at the relevant time i.e 6.3.2013 as well as at the time of office order dated 30.4.2012. Representative of the respondent is not in possession of the requisite record. Therefore, he is directed to bring relevant record, as noted above, alongwith record/office note etc whereupon the impugned order dated 6.3.2013 was made, for further arguments on the date already fixed i.e 20.12.2013.



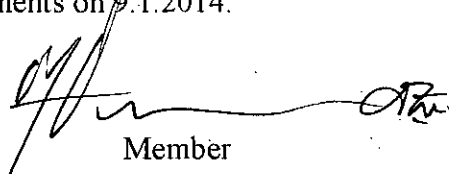
Member



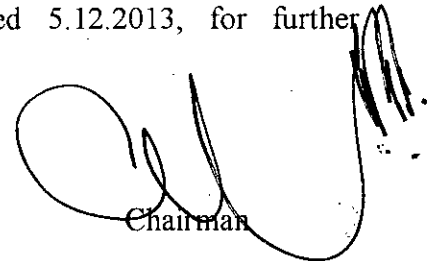
Chairman

20.12.2013

Appellant with counsel (Mr. Sajid Amin, Advocate), M/S Khurshid Khan, SO for respondent No. 1 and Mosam Khan, AD for respondent No. 2 with AAG for official respondents No. 1 to 3 and counsel for private respondent No. 4 present. The requisite record, per order sheet dated 5.12.2013, has not been brought, and representative of respondent No. 2 requested for further on the ground that he could not secure copy of the order sheet for the aforesaid purpose. The representative is warned to be careful in future, and also reminded of his duty to secure copy of order sheet in time and comply with the directions contained therein, otherwise he will make himself liable to strict disciplinary action. A last chance is given for production of the requisite record, per order sheet dated 5.12.2013, for further arguments on 9.1.2014.



Member



Chairman

30.9.2013

Counsel for the appellant, M/S Khurshid Khan, SO for respondent No.1, Mosam Khan, A.D for respondent No.2 with Mr.Usman Ghani, Sr.G.P for official respondents No.1 to 3 and counsel for private respondent No. 4 present. Rejoinder has not been received despite last chance given for the purpose on the previous date; therefore, rejoinder be filed in the meantime, with a copy for the opposite side for arguments on application as well as merits of the appeal on 25.10.2013.


Chairman

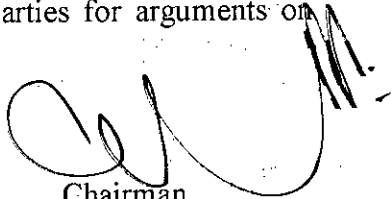
25.10.2013

Counsel for the appellant (Mr.Sajid Amin, Advocate), M/S Khurshid Khan, S.O for respondent No:1 and Javed Ahmad, Supdt. for respondent No.2 with Mr.Usman Ghani, Sr.GP for official respondents No.1 to 3 present. Rejoinder has not been received, and learned counsel for the appellant requested for further. Another last chance is given for rejoinder to be filed within a week, positively, otherwise the appellant will forfeit her right of rejoinder. To come up for arguments on application as well as merits of the appeal on 20.12.2013.


Chairman

29.10.2013

Notices be issued to the parties for arguments on 5.12.2013 instead of 20.12.2013


Chairman

10.7.2013

Clerk of counsel for the appellant, M/S Khurshid Khan, SO for respondent No. 1 and Tariq Hussain, Supdt for respondent No. 2 with Mr. Muhammad Jan, GP for official respondents No. 1 to 3 and clerk of counsel for private respondent No. 4 present. Reply to application for interim relief received on behalf of respondent No. 2, copy whereof is handed over to the opposite side for arguments. Rejoinder has not been received, and request for further time made on behalf of the appellant. To come up for rejoinder as well as arguments on application on 26.08.2013. Status-quo, as before, till then.


Chairman

26.8.2013

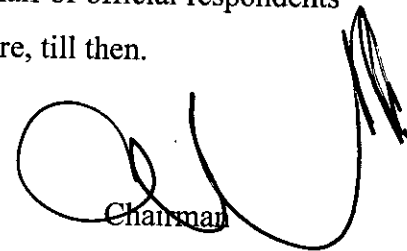
Counsel for the appellant (Mr. Sajid Amin, Advocate), M/S Khurshid Khan, SO for respondent No. 1, Tariq Hussain, Supdt for respondent No. 2 with Mr. Usman Ghani, Sr. GP for official respondents No. 1 to 3 and Mr. Gul Khitab, husband of private respondent No. 4, on behalf of private respondent No. 4 with counsel present. Neither rejoinder has been received nor learned senior counsel for the appellant (Mr. Ijaz Anwar, Advocate) is present for arguments on application. Request for adjournment made on his behalf. In view of the fact that an order of status-quo has been issued in favour of the appellant, a last chance is given for rejoinder and arguments on application for interim relief, on 30.9.2013.


Chairman



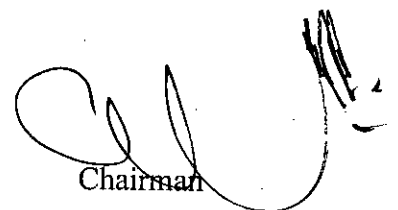
29.5.2013

Counsel for the appellant (Mr. Sajid Amin, Advocate) M/S Khurshid Khan, SO for respondent No. 1, Mosam Khan, AD for respondent No. 2, Khaista Rehman, Incharge Litigation for respondent No. 3 with Mr. Usman Ghani, Sr.GP and clerk of counsel for private respondent No. 4 present. Written reply/comments and reply to application for interim relief on behalf of official respondent No. 1 to 3 have not been received, and request for further time made on their behalf. A last chance is given for written reply/comments and reply to application for interim relief on behalf of official respondents No. 1 to 3 on 26.6.2013. Status-quo, as before, till then.


Chairman

26.6.2013

No one is present on behalf of the appellant. M/S Khurshid Khan, SO for respondent No. 1, Tariq Hussain, Supdt for respondent No. 2 and Khaista Rehman, Legal Representative for respondent No. 3 with Mr. Usman Ghani, Sr. GP present. Written reply/para-wise comments received on behalf of respondents No. 1 and 2, and representatives of respondents No. 1 and 2 and the learned Sr. GP stated that the case relates to the Directorate, E&SE, KPK, Peshawar, therefore, respondent No. 3 i.e. DEO, E&SE, Peshwar has got no concern with the case, and ^{that} the written reply/para-wise comments submitted on behalf of respondents No. 1 and 2 may also be considered as a reply/comments on behalf of respondent No. 3. Reply on behalf of private respondent No. 4 has already been received. Copies of the replies be handed over to the appellant/counsel for the appellant for rejoinder as well as arguments on application for interim relief. The official respondents may file reply to the application for interim relief ^{in the meantime,} with a copy for the appellant for arguments on application for interim relief as well as rejoinder on 10/7/2013. Status-quo, as before, till then.


Chairman

02.5.2013

Counsel for the appellant (Mr. Sajid Amin, Advocate) M/S Khurhsid Khan, SO for respondent No.1 and Mashal Khan, LO for respondent No. 2 with Mr..Usman Ghani, Sr.G.P present. Notice of official respondent No. 3 has not been received back. Therefore, fresh notice be issued to official respondent No. 3 and another notice be issued to private respondent No. 4 through the office of respondent No. 3 for written reply/comments as well as reply to application for interim relief and arguments thereon on 16.5.2013. Status-quo, as before, till then.

Member

Chairman

16.5.2013

Counsel for the appellant (Mr. Sajid Amin, Advocate), M/S Khurshid Khan, SO for respondents No. 1 to 3, with Mr. Usman Ghani, Sr. GP and counsel for private respondent No. 4 present. Written reply/comments alongwith reply to application for interim relief on behalf of private respondent No. 4 received, copy whereof is handed over to the learned counsel for the appellant, for rejoinder. Written reply has not been received on behalf of official respondents No. 1 to 3, and request for further time made on their behalf. Another chance is given for written reply/comments and reply to application for interim relief on behalf of official respondents No. 1 to 3, positively, on 29.5.2013. Status-quo, as before, till then.

Chairman

Appeal No. 621/2013.
Ms. Sajida Begum

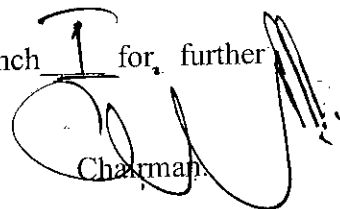
3, 10-4-2013

Counsel for the appellant present and heard. Contended that the appellant was appointed as SST in 1999. She was initially posted as ADO (F) at Nowshera where she served till her transfer to GGCMS Sheikhan Bara vide order dated 7.5.2003. Thereafter, she was transferred and posted as ADO (F) Hayatabad Circle, vide order dated 24.9.2009, however, due to separation of cadres she became surplus and later-on vide order dated 22.3.2011, she was adjusted again at GGCMS Sheikhan Bara against vacant SET post. The appellant was then transferred to JICA Model School Hayatabad Peshawar against vacant SET post vide order dated 30.4.2012. Prior to her posting to Hayat Abad the appellant has served for so many years at outstations, mostly in remote and unsecured areas, however, the appellant was not allowed to compete her tenure at Hayatabad and again she was transferred on 6.3.2013 to GGHS No. 2 Peshawar Cantt. The appellant filed a Writ Petition in the Peshawar High Court which was decided vide judgment dated 25.3.2013, the transfer made against the transfer and posting policy was taken into notice, however, due to bar of jurisdiction, the appellant was advised to approach the proper forum. The appellant filed a departmental appeal on 29.3.2013 against the impugned order dated 6.3.2013 which was rejected on 5.4.2013. Hence, the instant appeal. The learned counsel for the appellant further argued that the appellant has not completed her normal tenure. The transfer order was also made against the ban imposed by the Election Commission of Pakistan. The appellant has also filed an application for suspension of the operation of the impugned order dated 6.3.2013. Notice of application also be issued to the respondents. Points raised 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, notice be issued to the respondents. Case adjourned to 2.5.2013 for submission of written reply on main appeal as well as reply/arguments on application. Till then status quo be maintained.


Member.

4, 10-4-2013

This case be put before the Final Bench 1 for further proceedings.


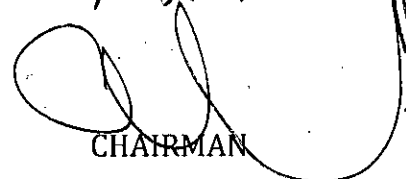

Chairman.

Appellant deposited
Process fee & Security
of Rs. 2000/- Bank Receipt
attached with file

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 621/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	09/04/2013	<p>The appeal of Mst. Sajida Begum presented today by Mr. Ijaz Anwar 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	10-4-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>10-4-2013</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

**BEFORE THE KHYBER PAKHTUNKWA SERVICE TRIBUNAL
PESHAWAR**

Appeal No. 621/2013

Mst. Sajida Begum SST, JICA Model School, Hayatabad
Peshawar.

(Appellant)

VERSUS

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

(Respondents)

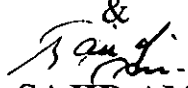
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4	Order dated 24.04.2009 and 22.11.2011	'B' & 'C'	8-9
5	Transfer Order dated 30.04.2012	'D'	10
6	Impugned Transfer Order dated 06.03.2013	'E'	11
7	Copy Writ Petition and High Court Order dated 25.03.2013	'F'	12 - 20
8	Departmental Appeal & rejection order dated 05.04.2013	'G' & 'H'	21 - 22
9	Posting and transfer Policy	'I'	23 - 26
10	Vakalatnama		

Through


Appellant

IJAZ ANWAR
Advocate, Peshawar

&

SAJID AMIN
Advocate, Peshawar

**BEFORE THE KHYBER PAKHTUNKWA SERVICE TRIBUNAL
PESHAWAR**

Appeal No. 691/2013

N.W.P. Province
732
09/04/13

Mst. Sajida Begum SST, JICA Model School, Hayatabad
Peshawar.

(Appellant)

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar.
2. Director Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer, Elementary and Secondary Education, Peshawar.
4. Ulfat Begum SST, GGHS No. 2 Peshawar Cantt.

(Respondents)

Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, against the Office Order dated 06.03.2013, whereby the appellant has been transferred from JICA Model School Hayatabad, Peshawar to GGHS No.2 Peshawar Cantt. while Respondent No. 4 has been transferred vice the appellant, against which her Departmental Appeal dated 29.03.2013, has also been rejected vide order dated 05.04.2013.

Prayer in Appeal:

On acceptance of this appeal the Orders dated 06.03.2013 and 05.04.2013, may please be set-aside and the appellant be allowed to continue her duties at JICA Model School Hayatabad, Peshawar.

Respectfully Submitted:

1. That the appellant is serving as SST in the Respondent Department for the last 14 years.

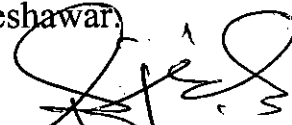
2. That the appellant remained at different stations as and when directed/posted, mostly she served out station, away from her home town. It is pertinent to mention that after serving for 4 years as ADO (F) Nowshera since her appointment, the appellant was transferred to GGMS Hayatabad, however the said transfer was amended vide corrigendum dated 7.05.2003, and she was posted at GGCMS Shekhan Bara against vacant SET post. (Copy of the Corrigendum dated 7.05.2003 is attached as Annexure A)
3. That having served for about 6 years at Shekhan Bara, the appellant was then transferred and posted as ADO (F) (Hayatabad Circle) vide order dated 24.04.2009, thereafter the appellant also remained surplus for quite some time and again vide order dated 22.03.2011, she was adjusted at GGCM. Primary School Bara Sheikhan, Peshawar against vacant Post. (Copies of the order dated 24.04.2009 and order dated 22.03.2011 is attached as Annexure B & C)
4. That the appellant was lastly transferred to JICA Model Girls Primary School Hayatabad, Peshawar vide order dated 30.04.2012. The appellant took over the charge of her post and started performing her duties. (Copy of the transfer order dated 30.04.2012 is attached as Annexure D).
5. That the appellant having hardly served for about 9 months at JICA Model Girls Primary School Hayatabad, without allowing her to complete her normal tenure of posting, in order to facilitate Respondent No.4 who exerted political pressure, the Respondent No.3 transferred the appellant to GGHS No. 2, Peshawar while Respondent No. 4 has been posted vice the appellant vide order dated 6.03.2013. (Copies of the order dated 06.03.2013 is attached as Annexure 'E')
6. That the appellant filed Writ Petition No. 678-P/2013 in the Honourable Peshawar High Court which was dismissed vide order 25.03.2013, however she was left with liberty to approach the proper forum for the redressal of her grievance. (Copy of Writ Petition and High Court Order dated 25.03.2013, is attached as Annexure F)
7. That thereafter, the appellant submitted her Departmental Appeal dated 29.03.2013, however, it has also been rejected vide order dated 05.04.2013. (Copies of the Departmental Appeal & rejection order dated 05.04.2013, are attached as Annexure 'G' & 'H')
8. That the impugned transfer order is illegal, unlawful, against the Transfer and posting Policy, politically motivated and is based on malafide inter alia on the following grounds:

GROUND OF APPEAL:

- A. That the appellant has not yet completed her normal tenure and thus the transfer order is premature, moreover the same is in violation of posting and transfer policy of the Provincial Govt. and the judgment of the apex court reported in PLD 1995 SC page 530. (Copy of the Transfer and Posting Policy is attached as Annexure I)
- B. That the impugned order dated 13.03.2013 is politically motivated and is made in favor of Respondent No. 4 who exerted political pressure for obtaining choice posting, thus the impugned order being Political motivated is against the transfer and posting policy and also against the reported judgments of the Superior Courts.
- C. That the appellant had served for more than 12 years outside her home town mostly in a remote and unsecured areas, however, when she was posted at her home town, she was not even allowed to complete her normal tenure of posting.
- D. That during her posting at JICA Model School, Hayatabad, the performance of the appellant remained commendable and there was no complaint whatsoever regarding her performance.
- E. That the impugned transfer order is made in ban period without obtaining prior permission/approval from the Election Commission, thus the same is nullity in the eye of law.
- F. That in fact there exist no exigencies of service nor the order of transfer can be termed as in the public interest, rather it was issued in violation of law and transfer / posting policy of the Provincial Govt.
- G. The respondents without caring for law had in a quick succession issued number of orders against the public interest or exigency of service.
- H. That the impugned transfer order is illegal, unlawful, politically motivated without lawful authority and passed without jurisdiction, not in the prescribed period, in violation of transfer and posting policy.

- I. That the appellant seek permission of this Honourable Court to rely on additional grounds at the hearing of this Appeal.

It is, therefore, very humbly prayed that On acceptance of this appeal the Orders dated 06.03.2013 and 05.04.2013, may please be set-aside and the appellant be allowed to continue her duties at JICA Model School Hayatabad, Peshawar.




Appellant

Through



IJAZ ANWAR
Advocate, Peshawar
&



SAJID AMIN
Advocate, Peshawar

BEFORE THE KHYBER PAKHTUNKWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. _____/2013

Mst. Sajida Begum SST, JICA Model School, Hayatabad
Peshawar.

(Appellant)

VERSUS

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

(Respondents)

**Application for the suspension of the transfer order
Dated 06.03.2013 till the decision of the above noted
Appeal**

Respectfully Submitted:

1. That the appellant has filed today the above noted appeal in this Honourable Tribunal in which no date of hearing has been fixed so far.
2. That the facts and ground mentioned in the accompanied appeal may be read as integral part of this application.
3. That the applicant has got a good prima facie case and there is likelihood of it success.
4. That the appellant has so far not relinquished his charge of his post.
5. That the applicant would be exposed to great hard ship and inconvenience in case the order is not suspended.
6. That the order passed is in violation of law.

7. That it will also serve the interest of justice if the order impugned is suspended till the final decision of the appeal.

It is there fore prayed that on acceptance of this application the operation of the impugned cancellation order dated 06.03.2013 may please be suspended till the decision of the appeal.


Applicant

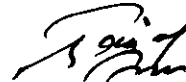
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Advocate, Peshawar

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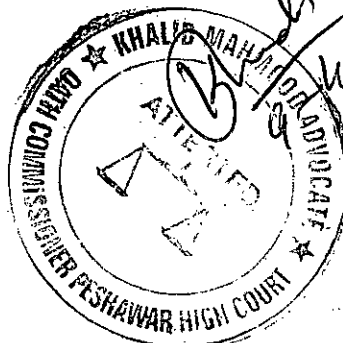


SAJID AMIN

Advocate, Peshawar

AFFIDAVIT

I, **Mst. Sajida Begum SST, JICA Model School, Hayatabad Peshawar.** do hereby solemnly affirm and declare on oath that the contents of the above appeal as well as application are true and correct to the best of my knowledge and believe and that nothing has been kept back or concealed from this Honourable Tribunal.




DEPONENT

7

Annex A

OFFICE OF THE DIRECTOR SCHOOLS & LITERACY NWFP PESHAWAR

CORRIGENDUM.

In partial modification of this office order No. 5951-55/F.No. A-13/DSL dated Peshawar the 31.3.2003, the following amendments are hereby made in the interest of public service with immediate effect.

S.No	Name & Address	Post	Remarks
1/2	Ms. Sajida ADO (F) Nowshera under transfer to GGMS Hayatabad Peshawar.	GGMS Bara Sheikhan Peshawar	Against vacant SET post. → To be appointed in H.A. Bara Peshawar
2/3	Ms. Zohra Jabeen SET GGMS Hayatabad Peshawar under transfer to GGMS Bara Sheikhan Peshawar.	GGMS Hayatabad Peshawar.	She should continue to work in her previous school i.e. GGMS Hayatabad Peshawar.

Note:-

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

ADDITIONAL DIRECTOR SCHOOLS & LITERACY NWFP PESHAWAR.

706-12

Encl. No. /A-17 F.No. 167. Dated Peshawar the 7.5/2003.

Copy forwarded for information & n/action to the:-

1. PS to Minister Education NWFP Peshawar.
2. PS to Secretary Schools & Literacy Department GoNWFP Peshawar.
3. Section Officer (Primary) Schools & Literacy Department GoNWFP, w.r to his letter No. SO(S) 5-6/2003/KC Dated 6.5.2003.
4. Executive District Officer (S&L) Peshawar.
5. Accountant General NWFP Peshawar.
6. Officials concerned.
7. PA to Director Schools & Literacy NWFP Peshawar.

Primary Edu

To fl against Sajida at Sr. No. 11 or 12 in Hayat Abad or at Peshawar as Voluntary by the CM in relaxation of pay

[Signature]

MANZOOR HUSAIN
PS to Chief Minister
N.W.F.P.

[Signature]
Assistant Director (Establishment)
Schools & Literacy NWFP Peshawar

ATTACHED

Muhammad Tariq
Subject Specialist
in English G.H.S.S

[Signature]
Deputy District Officer (F)
Primary Peshawar.

Alleged

(8)

Amended:-B

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E & S E) PESHAWAR.

OFFICE ORDER.

Mst: Sajida Begum, SET GGOMPS Bara Sheikhan Peshawar is hereby transferred on her own pay and EPS against vacant ADO (F) post (Hayat Abad Circle) o/o DDO(F) Primary Peshawar in the interest of public service with effect from the date of her taking over charge.

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

(SAID RAHMAN)
EXECUTIVE DISTRICT OFFICER
(E&S) EDU: PESHAWAR

Endst: No. 2950-53 G.Trf:(F) Dated 24/9 /2009.

Copy to the :-

1. District Accounts Officer Peshawar.
2. P/S to Minister for E & S E NWFP Peshawar.
3. DDO (F) Primary Peshawar.
4. Teacher concerned.

Ilam
EXECUTIVE DISTRICT OFFICER
(E&S) EDU: PESHAWAR

Attested
FB

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Amended C

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (E & S E) PESHAWAR

OFFICE ORDER.

Mst: Sajida Begum, Ex-ADO (F) Hayat Abad Circle o/o DDO (Female) Primary Peshawar (Now surplus) is hereby adjusted against vacant SET (G) post at G.G.C.M. Primary School Bara Sheikhan Peshawar in the interest of public service with effect from 01.03.2011.

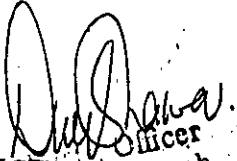
Note:- Charge report should be submitted to all concerned.
No TA/DA etc is allowed.

EXECUTIVE DISTRICT OFFICER
(E&S) EDU: PESHAWAR

Endst: No. 3036-39 / P.F. Sajida / SET dated 22/03 / 2011.

Copy to the :-

1. Directress Elementary & Secondary Education Khyber Pakhtoon Khwa Peshawar.
2. District Accounts Officer Peshawar.
3. DDO (F) Primary Peshawar.
4. Officer concerned.


DISTRICT OFFICER (FEMALE)
(E&S) EDU: PESHAWAR

Attest
[Signature]

Attn Hameed Niazi

10

Approved - D

OFFICE OF THE EXECUTIVE DISTRICT OFFICER E & S EDUCATION PESHAWAR.

OFFICE ORDER.

The competent authority is pleased to order the transfer of Ms. Sajida Begum SST GGCMPS Bara Sheikhan Peshawar to JICA Model Girls Primary School Hayat abad Peshawar against vacant in the interest of public service with immediate effect.

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

EXECUTIVE DISTRICT OFFICER
E & S EDU: PESHAWAR

Endst: No. 526-30/P.F. Sajida SST dated 30/4/2012.

Copy of the above is forwarded to the :-

1. District Accounts officer Peshawar.
- 2-3. Head Mistress concerned.
- 4--. Teacher concerned.
5. Assistant District Officer (F) Cantt Circle.

Robin Anees
DISTRICT OFFICER (FEMALE)
E & S EDU: PESHAWAR

Attest
AA

Ain Hameed Niazi

(11)

Annex: E

15

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION KHYBER PAKHTUNKHWA

OFFICE ORDER.

Consequent upon the approval of the competent authority transfer / adjustment of the following SST (Female) is hereby ordered on their own pay and BPS in the interest of public service with effect from their taking over charges.

S.No	Name & Designation	Adjusted at	Remarks
1	Ulfat SST GGHS. No.2 Peshawar Cantt	JICA Model School Peshawar Hayat Abad	Vice No.2
2	Sajida Begum SST JICA Model School Peshawar Hayat Abad	GGHS. No.2 Peshawar Cantt	Vice S. No.1

Note:--

1. Charge report should be sent to all concerned.
2. NO TA/DA etc are allowed.

Indst: No 1468-53 / A-158/ SST/Transfer

Copy for information to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. District Education Officer (Female) Peshawar.
3. District Accounts officer Peshawar.
4. Principal concerned.
5. PA to Director Local Directorate.
6. M/File.

DIRECTOR
Directorate of Elementary & Secondary,
Khyber Pakhtunkhwa Peshawar.

Dated Peshawar the 03 2013

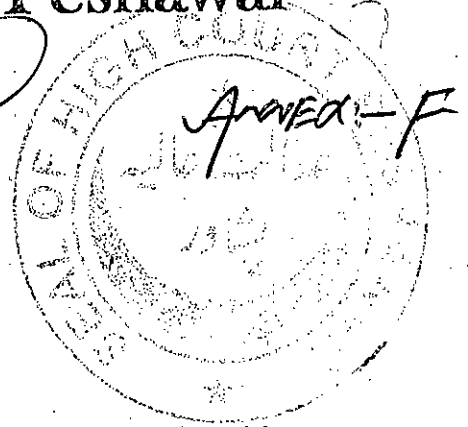
[Signature]
Deputy Director (Estab.)
Directorate of Elementary & Secondary,
Khyber Pakhtunkhwa Peshawar.

[Signature]
Attested

In the Peshawar High Court, Peshawar

Writ Petition No. 678-P of 2013

(12)



Mst. Sajida Begum Wife of Abdul Waheed Niazi,
Resident of House No. 156, Sector J-3,
Phase 2, Hayat Abad, Peshawar.

..... Petitioner

Versus

- 1) Government of Khyber Pakhtunkhwa,
Through Minister of Education,
Government Secretariat, Peshawar
- 2) Government of Khyber Pakhtunkhwa,
Through the Chief Secretary,
Government Secretariat, Peshawar
- 3) Government of Khyber Pakhtunkhwa,
Establishment & Administration Department,
Through its Secretary,
Government Secretariat, Peshawar
- 4) The Directorate of Elementary & Secondary Education, Peshawar.
Opposite Khyber Medical Center, Dabgari Garden, Peshawar.
Through its Director
- 5) The Deputy Director (Estab.),
Directorate of Elementary & Secondary Education, Peshawar.
Opposite Khyber Medical Center, Dabgari Garden, Peshawar.
- 6) The District Officer (female),
(E&S) Education, Peshawar.
Near Government Higher Secondary School No.1, G.T. Road, Peshawar
- 7) The Executive District Officer,
(E&S) Education, Peshawar.
Near Government Higher Secondary School No.1, G.T. Road, Peshawar
- 8) Mst. Ulfat SST,
C/O Government Girls High School No.2, Peshawar Cantt.
- 9) The Principal,
JICA Model Girls Model Primary School, Hayatabad, Peshawar

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2013/12

Registry Registrar
Peshawar

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Peshawar High Court

..... Respondents

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Writ Petition under Article 199

of the Constitution of Islamic Republic of Pakistan 1973

13

Respectfully Sheweth:

The petitioner very earnestly craves permission to plead for redressal of her grievance through instant Writ petition as follows:

1) That presently the Petitioner has been rendering services as SST Teacher (BPS-17) and is Posted as Principal at JICA Model School Hayatabad, Peshawar.

2) That initially the Petitioner was appointed as Senior English Teacher (S.E.T.) in the Year 1999 and was posted as A.D.E.O. at Nowshera and she served as such for 4 years:

(Copy of the Order of appointment is annexure "A")

3) That the Petitioner was then transferred as Head Mistress GGMS Hayatabad, Peshawar on 31.03.2003, but the said order was amended vide corrigendum dated 07.05.2003 for the reasons best known to respondents No.3 & 4.

(Copy of the transfer order dated 31.03.2003 and corrigendum dated 07.05.2003 is annexure "B" & "C")

4) That the Petitioner was forced to serve there from the up till 2009 and it was in the year 2011 when she was transferred to Hayatabad but again re-transferred to Bara Sheikhan.

(Copies of the orders transferring the Petitioner are annexure "D" & "E" respectively)

5) That on 30-04-2012, the Petitioner was transferred against a vacant Post at respondent No.8/ School and was appointed as Principal and has been serving there as such.

(Copy of the Transfer letter dated 30.04.2012 is annexure "F")

6) That to the utmost bewilderment and shocking of the Petitioner, the Petitioner was yet again served with an Office Order dated 06/03/2013 issued with the signatures of the Respondents No.3 & 4, wherein an interchange transfer of the Petitioner and the Respondent No.7 was alleged to have been approved by the Competent Authority from the date of their taking over charges.

(Copy of the Transfer letter dated 06/03/2013 is annexure "G")

7) That on enquiry it has been unearthed that the Respondent No.7 while exerting her political influence through her husband approached the Respondent No.1 and then the Respondent No.1 despite there been a ban on transfers issued directions for here posting at the place of Petitioner.

8) That though the Petitioner approached the Respondents No.3 & 4 and requested them to refrain from illegal acts, but the Petitioner has been negated with her due rights, hence the Petitioner is constrained to invoke the constitutional Jurisdiction of this Honorable Court inter-alia on the following grounds amongst others as follows:

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Grounds warranting this Writ Petition:

14

- a) Because the Transfers order of the Petitioner dated 06.03.2012 by the Respondents is unconstitutional, illegal, motivated with Political influence, unjustified and arbitrary.
- b) Because the Respondents have not followed the mandate of law, Justice and Rules and has thus caused serious discrimination and prejudice to the life and services of the petitioner.
- c) Because the Respondents have violated the basic principle of propriety and Justice and have bypassed the provision of Articles 4,9,10, 18 & 25 of the Constitution of Islamic Republic of Pakistan.
- d) Because by transferring the Petitioner constantly without letting her to complete her tenure of Three Years is illegal, unlawful, against the Rules and Policy and untenable.
- e) Because the Respondents have got no right and authority to play with the Petitioner's life and services and the order of inter-change transfer of the Petitioner and the Respondent No.7 is totally illegal, wanton, without justification and against the fundamental rights of the Petitioner.
- f) Because the Petitioner has been suffering very hard and immeasurably due to the refusal and negation of her rights by the Respondents.
- g) Because the Respondents have not taken into consideration the true facts and spirit of law into consideration.
- h) Because even otherwise and without conceding to the above submissions, the Order dated 06.03.2013 is without Authority and the respondents No.3 & 4 have got no right to sign the same.
- i) Because the Petitioner has been time and again been vexed and agonized by way of continuous transfers orders.
- j) Any other ground at the time of arguments with the kind permission of the Court in the best interest of Justice and need.

It is therefore very earnestly prayed that while considering the grievances of the Petitioner this honorable Court may very magnanimously declare, hold and direct:

- (i) That the Transfer Order dated 06.03.2013 is manifestly illegal, wanton, unjustified, against the Policy and Rules applicable to the matter, politically smacked, highly detrimental to the rights of the Petitioner and thus untenable.

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That the Petitioner is entitled to serve at the present Place of appointment at IICA Mosel School for minimum Three Years as per Policy and Rules.

- (III) Any other relief not specifically asked for may also be granted if deemed fit and appropriate in the circumstances of the case.
- (IV) Interim Relief: while considering all the wherewithal ingredients present in favor of the Petitioner in the instant case, the operation of the impugned Transfer order dated 06.03.2013 be suspended and the Respondents may kindly be directed not to interfere in the services of the Petitioner at the present Place of duty till the final decision of the case.

Petitioner

Through

Abdul Rahim Khan Jadoon,

&

Sheraz Ahmad Butt,
Advocates, Peshawar

Certificate:

It is certified that no Writ petitioner on the same cause of action has previously been filed by the Petitioner in this Honorable Court or any other Court.

Petitioner

List of Books

1. The Constitution of Islamic Republic of Pakistan 1973.
2. The Civil Servants Act 1973.
3. The Posting/ transfer Policy of the Provincial Government.
4. The Civil Servants (Efficiency, promotion and discipline Rules).
5. Other Books if needed be.

Petitioner

Maj

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The Peshawar High Court, Peshawar

In Writ Petition No. ___ of 2013

Mst. Sajida Begum

Versus

Govt of KPK and Others

Affidavit

I, **Mst. Sajida Begum** Wife of **Abdul Waheed Niazi**, Resident of House No. 156, Sector 1-2, Phase 2, Hayat Abad, Peshawar, do hereby solemnly affirm and declare on oath that the contents of this Writ Petition are true and correct and nothing contained therein is false or concealed.

Deponent

CNIC # 17301-5828534-4

Identified by:

Abdul Rahim Khan Jadoon,
Advocate, Peshawar

8350

affirmation before me in office, this 07/11 day of May 2013 by Mst. Sajida Begum s/o Abdul Waheed, Peshawar who was identified by Abdul Raheem Khan Who is personally known to me:

Commissioner
Peshawar High Court

ATTESTED

EXAMINED
Peshawar High Court

(17) (6)

Peshawar High Court, Peshawar

In Writ Petition No. _____ of 2013

Mst. Sajida Begum

Versus

Govt of KPK and Others

Addresses of the Parties

Petitioner

Mst. Sajida Begum Wife of Abdul Waheed Niazi,
Resident of House No. 156, Sector J-3,
Phase 2, Hayat Abad, Peshawar.

Respondents

- 1) **Government of Khyber Pakhtunkhwa,**
Through Minister of Education,
Government Secretariat, Peshawar
- 2) **Government of Khyber Pakhtunkhwa,**
Through the Chief Secretary,
Government Secretariat, Peshawar
- 3) **Government of Khyber Pakhtunkhwa,**
Establishment & Administration Department,
Through its Secretary,
Government Secretariat, Peshawar
- 4) **The Directorate of Elementary & Secondary Education, Peshawar.**
Opposite Khyber Medical Center, Dabgari Garden, Peshawar.
Through its Director
- 5) **The Deputy Director (Estab:),**
Directorate of Elementary & Secondary Education, Peshawar.
Opposite Khyber Medical Center, Dabgari Garden, Peshawar.
- 6) **The District Officer (female),**
(E&S) Education, Peshawar,
Near Government Higher Secondary School No.1, G.T. Road, Peshawar
- 7) **The Executive District Officer,**
(E&S) Education, Peshawar.
Near Government Higher Secondary School No.1, G.T. Road, Peshawar
- 8) **Mst. Ulfat SST,**
C/O Government Girls High School No.2, Peshawar Cantt:
- 9) **The Principal,**
JICA Model Girls Model Primary School, Hayatabad, Peshawar

Petitioner

Through

Abdul Rahim Khan Jadoon,
Advocate, Peshawar

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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 25.03.2013</p>	<p><u>Writ Petition No.678-P/2013</u></p> <p>Present: Mr. Abdul Rahim Khan Jadoon, Adv., for Mst. Sajida Begum, petitioner.</p> <p style="text-align: center;">*****</p> <p><u>MAZHAR ALAM KHAN MIANKHEL, J.-</u></p> <p>Mst. Sajida Begum, petitioner herein, through the instant constitutional petition, has questioned the order dated 06.03.2013 of respondent No.4, whereby, she has been transferred from JICA Model School, Peshawar, Hayatabad to GGHS No.2, Peshawar Cantt., being nullity in the eye of law is of no effect whatsoever</p> <p>2. The learned counsel appearing on behalf of the petitioners contended that when the order has been passed merely on mala-fide basis, it cannot be said to have been passed either in the public interest or in the exigencies of service, that too, when in a very short span of time, she was transferred from one place to</p>

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rather imperative and even indispensable. Alternate remedy, the learned counsel added, being a rule of procedure and not of law can't limit or restrict the jurisdiction of this Court in the cases of this nature.

3. We have gone through the available record carefully and considered the submissions made by the learned counsel for the petitioner.

4. No doubt, the available record reveals that the policy of the Government regarding posting and transfer has apparently been violated but the controversy as to posting and transfer being related to the terms and condition of service can well be urged before the departmental authority in the first instance and then before the Service Tribunal, this Court, in view of the bar contained in Article 212 of the Constitution of Islamic Republic of Pakistan, 1973 coupled with dictum laid down by the apex Court in number of cases cannot embark upon such like matters. However, the officer concerned violating the clear policy of the Government, can also be dealt with departmentally as his such an act amounts to misconduct. In this view of the matter, this writ petition being misconceived is, thus, dismissed in

M. J. Khan

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limine. However, the petitioner would be at liberty to approach the proper forum, as hinted to above, for the redressal of her grievance.

Announced.
25.03.2013

Sell- Maghas Alam Khan
Sll- Wages Ahmad Sethi

Office

CERTIFIED TO BE TRUE COPY
A. Khan
02/4/13
Pushawat
Authorised under Article 87 of
The Qanun-e-Shahadat Order 1984

13849

01/4/13

Copies to
Urgent Recd
Total

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6/10/13

Accepted
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ANNEX:- G

The Directorate of Elementary & Secondary
Education, Khyber Pakhtoonkhwa, Pakistan

Subject: Appeal for Cancellation of Transfer Order


Dear Sir,

With great reverence it is stated that, I have been working as SST (**Senior School Teacher**), PBS 17 for last **14(fourteen)** years, in this span of time, mostly I served the Education department in out of station, away from my home town, Hayatabad. I work for more than 4 years in Nowshera as ADEO and for more than 8 years in Government Middle School Barhá Shekhan. This is understood that Being a female how I would be suffered while working in remote and un-secure areas like Barah Sheikan, where male entry was almost impossible but I did my duty bravely and fulfill my responsibilities.

After almost **12 years** suffering I have been transferred to JICA Model School, Hayatabad on **30 April 2012**, but unfortunately, the Directorate of Elementary & Secondary of Education, Khyber Pakhtunkhwa issued my transfer order (**Endst: No: 1448-53, dated : 06/03/2013**) without completing my tenure and any other solid reason.

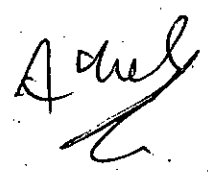
Therefore it is requested to consider the subject appeal and may issue cancellation of above mentioned transfer order. I will be highly thankful to you for this act of kindness.

Sincerely Yours,



date
29.3.2013

Sajida Begum, SST,
JICA Model School, Hayatabad,
Peshawar, Khyber Pakhtunkhwa, Pakistan.



22

ANNEX: H

Directorate of Elementary & Secy: Education
Khyber Pakhtunkhwa Peshawar

No. 779 / E.O. 58/SST (F) Transfers.
Dated Peshawar the 5/4 2013

To

Mst. Sajida Begum SST
JICA Model School Hayatabad
Peshawar

Subject: - APPEAL FOR CANCELLATION OF TRANSFER ORDER.

Dear Sir,

I am directed to refer to your appeal No. nil dated 29-03-2013 on the subject cited above and to state that your appeal has rejected by the competent authority and you are directed to take over charge at GGHSS No.2, Peshawar cantt immediately being your new assignment.

Deputy Director (F) Estb;
Elementary & Secondary Education
Khyber Pakhtunkhwa

Endst No. _____

Copy of the above is to:

1. Principal GGHSS No. 2 Peshawar cantt.
2. PA to Director (E&SE) Khyber Pakhtunkhwa Peshawar.

Deputy Director (F) Estb;
Elementary & Secondary Education
Khyber Pakhtunkhwa

BETTER COPY.

GOVERNMENT OF N.W.F.P
ESTABLISHMENT & ADMINISTRATION DEPARTMENT
(REGULATION WING)

NO.SOR-1(E&AD)1-1/85(Vol:II)

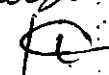
Dated the Peshawar the 15th February, 2003.

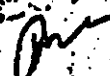
- 1- All Administrative secretaries to Govt: of NWFP.
- 2- The Secretary to Governor, NWFP.
- 3- The Secretary to Chief Minister, NWFP.
- 4- All Heads of Attached Departments in NWFP.
- 5- All the Heads of Autonomous/Serai Autonomous Bodies in NWFP.
- 6- All Distt: Co-Ordination Officer/Political Agents in NWFP.
- 7- The Registrar Peshawar High Court Peshawar.
- 8- All Distt: & Session Judges in NWFP.
- 9- The Secretary NWFP Public Service Commission, Peshawar.
- 10- The Director Anti-Corruption Establishment, Peshawar.
- 11- The Secretary Board of Revenue, NWFP, Peshawar.
- 12- The Registrar, NWFP Service Tribunal, Peshawar.

SUBJECT: POSTING/TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT.

Dear Sir,

1. I am directed to refer to the subject noted above and to say that in supersession of all policy, instructions issued in this behalf, the competent authority has approved the following Posting/Transfer Policy: -
 - i). All the posting /transfer shall be made strictly in the public interest and shall not be abused/misused to victimize the Government Servant.
 - ii). All Government servants are prohibited to exert political, Administrative or any other pressure upon the posting /transfer authorities for seeking posting transfer of their choice and against the public interest.
 - iii). All contract Govt: employees appointed against specific posts cannot 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

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while the remaining departments shall make posting/transfer in July. There shall be a ban on posting/transfer throughout the year excluding the aforementioned two months due to promotion/retirement/creation of new post/return from long leave/involvement in disciplinary proceedings and adjustment of surplus staff for which specific relaxation shall be obtained from the Chief Minister.

24

- vi) While making posting/transfers from settled area to FATA vice-versa specific approval of the Governor NWFP needs to be obtained.
- vii) Officers may be posted on executive/administrative posts in the Distt: of their domicile except District Co-Ordination Officers (DCOs), and Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where a Police Station (Thana) of his area/residence is situated.
- viii) No posting/transfers of the officers/officials on the detailment basis shall be made.
- ix) Regarding the posting of husband/wife, both in the Provincial Services, efforts where possible, would be made to post such persons at one station and this will be subject to the public interest.
- x) All posting/transfers authorities may facilitate the posting/transfers of unmarried female Govt: Servant at the station of their residence of their parents.
- xi) Officer/officials except DCOs and SPs who are due to retire within one year may be posted on their option, on posts in the Distt: of their domicile and be allowed to serve there till retirement.
- xii) In terms of Rule-17 (1) and (2) read with schedule-III of the Govt: of NWFP Rules of Business 1985, transfer of officers shown in column 1 of the following table, table shall be made by the authorities shown against each officers in column 2 thereof: -

COLUMN - 1	COLUMN - 2
<p><u>Outside the Secretariat.</u></p> <ol style="list-style-type: none">1. Officers of the all Pakistan Unified Group i.e. DMG, PSP including Provincial Police Officers in BPS-18 and above.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)3. Head of attached Deptt: and other officers in B-19 & above in all the Deptt:	<p>Chief secretary in consultation with the Establishment Deptt. With the approval of the Chief Minister.</p>

Attested
[Signature]

<p><u>In the Secretariat.</u></p> <p>4. Secretaries.</p> <p>5. Other officers and above the rank of Section Officers: -</p> <p>a)- Within the same Deptt:</p> <p>b)- Within the Secretariat from one Deptt: to another.</p> <p>6. Officers up to the rank of Superintendents.</p> <p>a)- Within the same Deptt:</p> <p>b)- To and from Attached Deptt:</p> <p>c)- Within the Secretariat from one Deptt: to another.</p>	<p>Chief Secretary with the approval of the Chief Minister.</p> <p>Secretary of the Deptt: concerned.</p> <p>Chief Secretary/ Secretary Establishment.</p> <p>Secretary of the Deptt: concerned.</p> <p>Secretary of the Deptt: in consultation with the Head of Attached Deptt:</p> <p>Secretary Establishment.</p>
--	--

- xiii) While considering the posting/transfers proposals all the concerned authorities shall keep in mind the following: -
 - a). To ensure the posting of proper persons on proper posts the annual confidential reports, past and present record of service, performance on post held presently and in the past and general reputation with focus on integrity of the concerned officer/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.
- xiv) Government servants including Distt: Government employees feeling aggrieved due to the orders of posting/transfers authorities may seek remedy from the next higher authority/ the appointing authority as the case may be brought an appeal to be submitted within seven days of the receipt of such order. Such appeal shall be disposed of within fifteen days. The option of appeal against posting/transfers orders could be exercised only in the following cases: -
 - i)- premature posting/transfers or posting/transfers in violation of this policy.
 - ii)- Serious and grave personal(humanitarian) grounds.

Attest

[Signature]

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

3. As per Rule-25 (2) of the Rules mentioned above the Distt: Coordination Department shall consult the Govt: if it is proposed to:-
- a)- transfer the holder of the tenure post before the completion of his tenure or extend the period of his tenure; and
 - b)- Acquire an officer to hold charge of more than one post for a period exceeding two months.

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

Your Faithfully,

Sd/xxx
 (GHULAM JALANI ASIF)
 ADDL: SECRETARY(REG:)

Endst:NO.SOR-1(E&AD)1-1/85

dated Peshawar the 15.2.2003.

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ATTESTED
Handwritten signature

POWER OF ATTORNEY

In the Court of Khyber Pakhtun Khwa Service Tribunal Peshawar

Mst Sajida Begum } For
} Plaintiff
} Appellant
} Petitioner
} Complainant

VERSUS

Govt of Khyber Pakhtun Khwa } Defendant
} Respondent
} Accused
}

Appeal/Revision/Suit/Application/Petition/Case No. _____ of _____
Fixed for _____

I/W, the undersigned, do hereby nominate and appoint

IJAZ ANWAR ADVOCATE, SUPREME COURT OF PAKISTAN

and Sajid Anwar Advocate my true and lawful attorney, for me in my same and on my behalf to appear at Peshawar to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits. Companies or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc, and to apply for and issue summons and other writs or subpoena and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at Peshawar
the _____ day to _____ the year _____
Executant/Executants _____
Accepted subject to the terms regarding fee _____

Accepted
Sajid Anwar
Advocate, Pesh.

[Signature]
Ijaz Anwar
Advocate High Courts & Supreme Court of Pakistan

BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR

In Re: Service Appeal No.621 / 2013

Mst. Sajida Begum **Appellant**

V E R S U S

Govt of KPK and others **Respondents**

Application/Petition for Interim Relief

Reply on behalf of Respondent No. 4

Respectfully Sheweth:

1. That the appellant/petitioner has got no locus standi to file the present application/petition.
2. That the appellant/petitioner is estopped by her own conduct to bring the application/petition in hand.
3. That the appellant/petitioner has come to the court with unclean hands, she has suppressed the material facts from the Honourable Court and tried to mislead, her application/petition deserves dismissal on this score alone.
4. That the application/petition is pregnant with malafide intentions.
5. That the petition is not maintainable in its present form.
6. That in pursuance of transfer order, the replying respondent No. 4 took the charge on 08.03.2013 and is performing duty in JICA Model Primary School Hayatabad, Peshawar. (Copy of Certificate of Transfer of Charge is attached as Annexure A)

ON FACTS:

1. Needs no reply.
2. That in reply to the contents of Para No.2 of the application/petition, it is submitted that grounds of the appeal are not worth consideration, therefore, cannot be read as an integral part of this application/petition.
3. Incorrect, the applicant/petitioner has got no case, what to speak of a prima facie case, and there is no hope of her success.
4. Incorrect, as stated in the preceding para, the replying respondent has assumed the charge on 08.3.2013 and is performing her duty in JICA Model Primary School Hayatabad, Peshawar.
5. Incorrect and perverse, on the other hand great inconvenience would be caused to the replying respondent due to issuance of interim order.
6. Incorrect, the transfer order is legal.
7. Incorrect and false, the public interest demands that the transfer order may be maintained.

It is, therefore, prayed that on acceptance of this reply, the application/petition in hand being devoid of force and without substance, be dismissed with costs.

Respondent No.4

Through



Shakeel Ahmad

Date: ___/___/2013

Advocate Supreme Court

BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR

In Re: Service Appeal No.621 / 2013

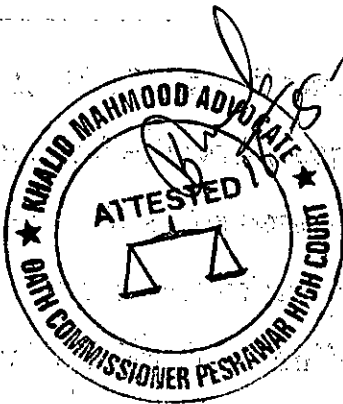
Mst. Sajida Begum.....**Appellant**

VERSUS

Govt of KPK and others.....**Respondents**

AFFIDAVIT

I, Mst. Ulfat Yasmeen S.E.T, JICA Model Primary School, Hayatabad Peshawar (respondent No. 4), do hereby solemnly affirm and declare that the contents of the accompanying **Reply** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.




DEPONENT

BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR

In Re: Service Appeal No.621 / 2013

Mst. Sajida Begum**Appellant**

V E R S U S

Govt of KPK and others:.....**Respondents**

**Appeal u/s 4 of the KPK
Service Tribunal Act, 1974**

**Comments on behalf of the
respondent No. 4**

Respectfully Sheweth:

1. That the appellant has got no locus standi to file the present appeal.
2. That the appellant is estopped by her own conduct to bring the appeal in hand.
3. That the appellant has come to the court with unclean hands, she has suppressed the material facts from the Honourable Court and tried to mislead, her appeal deserves dismissal on this score alone.
4. That the appeal is pregnant with malafide intentions.

5. That the appeal is bad due to mis-joinder or non-joinder of necessary parties.
6. That the appeal is not maintainable in its present form.
7. That with due respect the Honourable Court lacks jurisdiction adjudicate upon the matter.
8. That appeal is barred by time.
9. That in pursuance of transfer order, the replying respondent No. 4 took the charge on 08.03.2013 and is performing duty in JICA, Model School Hayatabad, Peshawar. (Copy of Certificate of Transfer of Charge is attached as Annexure A)

ON FACTS:

1. Requires proof. The appellant has always been in practice to escape from her main duty i.e. teaching the children, and getting choice posting on non-teaching posts such as ADO(F) Nowshera, ADO(F) Hayatabad Circle Peshawar, Head/Principal GGCM Primary School Bara Sheikhan and Head/Principal JICA Model Primary School Hayatabad Peshawar. Would the appellant like to inform this Honourable Court that out of her total claimed length of service as an SST/SET, how many years she has performed her actual/basic duty?
2. That in reply to the contents of Para No.2 of the appeal, it is submitted that the appellant belongs to District Bannu, both

her and her spouse home town is Mohallah Nawab, Bannu City where their votes have been registered in Block Code: 051070203 at Serial No. 332 and 400 respectively as per Election Commission of Pakistan's record by messaging their CNIC Nos. 1730158285344 and 1730135897219 to ECP No. 8300. She was appointed as SET on 12.07.1999 and was posted at GGHSS No.1, Bannu, she got herself transferred outside Bannu District by using political influence of her spouse, a so-called politician and unsuccessful candidate for PK-5. (Copy of proof of her domicile, and advertisement for election campaign of her spouse in the Daily Aaj Peshawar dated 03.5.2013 are attached as Annexure B & C)

3. Requires proof.
4. Pertains to record.
5. That in reply to the contents of para No.5 of the appeal it is submitted that the allegation of putting political pressure is incorrect and false, the replying respondent was transferred and posted in GGHS No.2, Peshawar Cantt vide office order dated 31.07.2004, she served there till 06.03.2013, her transfer and posting at JICA Model Girls Primary School, Hayatabad Peshawar is in routine manner, to complete a normal tenure is not the requirement of law, a government servant is liable to be posted and serve anywhere throughout the province. Replied accordingly.

6. Needs no reply.
7. That the appellant has missed the train by late submission of her departmental appeal on 29.3.2013 contrary to the provision of seven days period in section XIV of the Posting/Transfer Policy of the Provincial Government. She approached to this Honourable Court on 09.4.2013 i.e. after 34 days of her transfer order and the Honourable Court granted her status quo on 10.4.2013, the order was never officially communicated to the respondents till the hearing date i.e. 02.5.2013, but despite that pay of respondent No.4 was illegally stopped and she has been deprived of her pay for the month of April 2013 due to political influence of appellant's spouse.
8. Incorrect and perverse, the transfer order is legal, coram-judice and is not based on political consideration.

GROUND:

- A. Incorrect & misleading, to complete the normal tenure is neither a legal requirement nor offends any statutory law/rules, even appellant never completed her normal tenure at her first posting station/home town i.e. GGHS No.1 Bannu and got herself transferred at her choice posting just few months after her appointment using political influence of her spouse.

- B. That allegation as set forth is false, no political pressure was put forth by the replying respondents, her transfer is a result of routine order.
- C. Misleading, the appellant is a domicile holder of District Bannu, Hayatabad is not the home town of the appellant, no government servant can claim posting of her/ his choice in a particular place. As stated above, she being government servant is liable to be posted and transferred anywhere, no vested, accrued or legal right of the appellant has been infringed. Replied accordingly.
- D. Denied for want of knowledge.
- E. Incorrect and misleading, Election Commission of Pakistan had never banned transfers till 06.3.2013; the transfer order is a result of routine order.
- F. Incorrect, misleading and perverse. The transfer order is legal and does not offend public interest or any provision of law. In fact the appellant has always escaped from her main duty of teaching and has always managed to remain posted on non-teaching posts such as ADO(F) Nowshera, ADO(F) Hayatabad Peshawar, Head/Principal GGCM Primary School Bara Sheikhan and Head/Principal JICA Model Primary School Hayatabad Peshawar. Let the children be enlightened with her teaching at some high/higher secondary school in the best public interest.

G. Incorrect and false. Detailed reply has been given in the above paras.

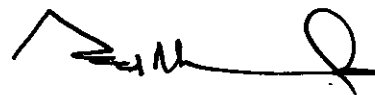
H. Incorrect and false, the transfer order is legal, just and not result of political consideration, it does not offend any statutory provision. Replied accordingly.

I. Needs no reply.

It is, therefore, prayed that on acceptance of this reply, the appeal being devoid of force and without substance, be dismissed with costs.

Respondent No.4

Through



Shakeel Ahmad
Advocate Supreme Court

Date: 16/4/2013

BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR

In Re: Service Appeal No.621 / 2013

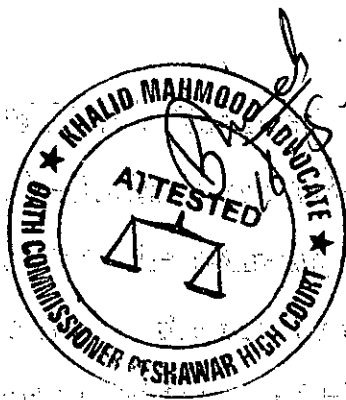
Mst. Sajida Begum.....**Appellant**

VERSUS

Govt of KPK and others.....**Respondents**

AFFIDAVIT

I, Mst. Ulfat Yasmeen, S.E.T, JICA Model Primary School, Hayatabad Peshawar (respondent No. 4), do hereby solemnly affirm and declare that the contents of the accompanying **Comments** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.




DEPONENT

CERTIFICATE OF TRANSFER OF CHARGE.

1. Certified that we have on the fore/afternoon of this day respectively made over and received charge of this office of the JICA Malef

School - Hayat Abad Peshawar - order No. 1148 - 53/15/2013

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

Signature of relieved Government servant _____

Designation — SRT _____

Station JICA Malef School

Signature of relieving Government servant _____

Designation — SRT _____

Dated 28/10/2012 (EAL)

Forwarded — DDO (F) Es Peshawar

N.W.F.P. Acct. Try. No. 42.

[Signature]
Sub. Div. Education Officer,
(Female) Primary Peshawar.

[Handwritten signature]

Annex - B

S.No.	Name /Father Is Name/ Qualifications	School	Year of Passing B.Ed /Merit	Date of Birth / Domicile	Date of Ist: Apptt: in Edu:Deptt:	D/o Apptt / Approval of SET Post	Remarks
1	2	3	4	5	6	7	8
1028	Humera Bibi, SET BA BEd	GGHS, Panninan, Haripur	1992	05.02.67Haripur		21.9.99	
1029	Sajida Begum, SET BA BEd	GGHSS, No.1, Bannu	1992	24.05.68Bannu		12.7.99	✓
1030	Samina Yasmin, SET BA BEd	GGHS, Latamber Karak	1992	15.03.65Karak		12.7.99	
1031	Masroor Akhtar, SET BA BEd	GGHS, Latambar Karak	1992	04.01.65Karak		12.7.99	
1032	Naz Afreen, SET BA BEd	ADEO(F)Peshawar	1992	13.04.64Peshawar		12.7.99	
1033	Ajab Nisa, SET BA BEd	GGHS, No.2 Karak	1992	18.12.60Karak		12.7.99	
1034	Talat Shaheen, SET BA BEd	GGMS, Zropka wazir Bannu	1992	22.01.62Bannu		12.7.99	
1035	Samina Yasmin, SET BA BEd	GGMS, Bangish khel Bannu	1992	07.03.67Bannu		12.7.99	
1036	Sajida Shaheen, SET BA BEd	GGMS, Barat khel lakki	1992	01.04.57Lakki		12.7.99	
1037	Ghazal Anjum, SET BA BEd		1992	19.03.73Chitral		12.7.99	
1038	Farhat Jabeen, SET BA BEd	GGMS, Nar Sahib Khan Lakki	1992	09.04.66Lakki		12.7.99	
1039	Shahina Bibi, SET BA BEd	GGHS, Ghazi Hemlet Haripur	1992	31.05.62Haripur		21.9.99	
1040	Saeeda Mufeed, SET BA BEd	GGHS, Akbar pur Nowshera	1992	07.11.63Peshawar		12.7.99	SS
1041	Robina Shaheen, SET BA BEd	GGMS, Guleen Nurar Bannu	1992	31.03.68D.I.Khan		12.7.99	
1042	Bibi Zahida, SET BA BEd	GGHS, Lachi Kohat	1992	01.01.57Kohat		12.7.99	
1043	Tofzil Begum, SET BA BEd	GGMS, Mata Pahandzai Chd;	1992	15.02.68Charsadda		12.7.99	
1044	Abida Maryam SET BA BEd	GGMS, Mandoori Nowshera	1992	15.04.66Nowshera		12.7.99	
1045	Rehana Kalsoom, SET BA BEd	GGMS, Teri khan Lakki	1992	04.04.69D.I.Khan		12.7.99	
1046	Farhat Imdad, SET BA BEd	GGHS, Kheshgi Payan, NSR	1992	01.01.7Peshawar		12.7.99	
1047	Nasim Akhtar, SET BA BEd	GGMS, Mianki Banda Karak	1992	08.05.64Kohat		12.7.99	
1048	Shamshad Begum, SET BA BEd	GGMS, Bigwani Shunahi	1992	06.04.57D.I.Khan		12.7.99	

✓
1040
SS

پشاور ایسٹ آباد اسلام آباد اور کراچی سے بیک وقت شائع ہونے والا کثیر الا شعاعیت قومی اردو روزنامہ

روزانہ کی شہرت اور کما حقہ اہمیت

روزنامہ

پشاور
پاکستان

ایڈیٹر
عبدالواحد ریوٹی

صفحات 12

جلد 24 | جمعہ 3 مئی 2013ء | بجایں اسی 1434 | قیمت 12 روپے ہی 114

حالا

NA-3 چنگاری

قلمی

ملک اسرار

آزاد امیدوار برائے
صوبائی اسمبلی
حلقہ 5-PK پشاور-5
خیبر بختونخوا
انتخابی نشان

عبدالواحد ریوٹی

استری

نوجوان نیاوت



alshad 8

OFFICE OF THE EXECUTIVE DISTRICT OFFICER (SCHOOLS & LITERACY) PESHAWAROFFICE ORDER

Consequent upon the Approval of the competent Authority, the transfer of the following SET (Female) are hereby ordered on their own pay and BPS to the Schools noted against their name in the interest of public service with immediate effect.

S.No.	Name of Teacher with School	Desig.	Transfer to	Remarks
1.	Yasmin Bano JICA Model School Budni Peshawar.	SET	GGHS Sheikh Abad	Against Longest Tenure Holder vice S.No.2
2.	Rizwana Tehseen GGHS Sheikh Abad	SET	JICA Model School Budni	Vice S.No.1
3.	Ruqayya Khanum GGMS Sufaid Dheri	SET	GGHS No.1 Cantt	Against Longest Tenure Holder Vice S.No.4
4.	Shahnaz Niazi GGHS No.1 Cantt	SET	GGMS Sufaid Dheri	Vice S.No.3
5.	Ulfat Begum GGMS Shahi Bala	SET	GGHS No.2 Cantt	Vice Sr: No. 6
6.	Noshaba Nisar GGHS No.2 Cantt	SET	GGMS Shahi Bala	Vice Sr: No. 5

- Note.
1. T.A /D.A is not allowed.
 2. Charge Report should be submitted to all concerned.
 3. The Principal / Head Mistress concerned are directed to verify this transfer order from the Office of the Undersigned before taking / handing over the charge.

(TARIQ RAFIQUE)
District Coordination Officer
City District Government Peshawar.

Endst. 1406-1415/ No./G.Transfer S.E.T / Female Dated Peshawar the July 31, 2004.

Copy forwarded for information and necessary action to the:-

1. P/S to Minister for Education N.W.F.P.
2. P/S to Secretary (Schools & Literacy) Department Government of N.W.F.P.
3. P/A to Director (Schools & Literacy) N.W.F.P. Peshawar.
4. P.S.O. to District Nazim City District Government Peshawar.
5. P/S to District Coordination Officer City District Government Peshawar.
6. District Accounts Officer Peshawar.
7. All the Principals / Head Mistress Concerned, with the remarks to follow the condition of S.No.3 given in the note above.
8. A.D.O Establishment / Superintendent Establishment local Office.
9. P.A to Executive District Officer (Schools & Literacy) Peshawar.
10. Cashier Local Office.

DISTRICT OFFICER (FEMALE)
SCHOOLS & LITERACY PESHAWAR

Musteen
8

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION KHYBER PAKHTUNKHWA

OFFICE ORDER.

Consequent upon the approval of the competent authority transfer / adjustment of the following SST (Female) is hereby ordered on their own pay and BPS in the interest of public service with effect from their taking over charges.

S.No	Name & Designation	Adjusted at	Remarks
1	Ulfat SST GGHS. No.2 Peshawar Cantt	JICA Model School Peshawar Hayat Abad	Vice No.2
2	Sajida Begum SST JICA Model School Peshawar Hayat Abad	GGHS. No.2 Peshawar Cantt	Vice S. No.1

Note:-

1. Charge report should be sent to all concerned.
2. NO TA/DA etc are allowed.

DIRECTOR
Directorate of Elementary & Secondary,
Khyber Pakhtunkhwa Peshawar.

Endst: No 1448-53 / A-158/ SST/Transfer

Dated Peshawar the 6/3 2013

Copy for information to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar.
2. District Education Officer (Female) Peshawar.
3. District Accounts officer Peshawar.
4. Principal concerned.
5. PA to Director Local Directorate.
6. M/File.

Deputy Director (Estab.)
Directorate of Elementary & Secondary,
Khyber Pakhtunkhwa Peshawar.

[Handwritten Signature]

Sub. Divl. Education Officer,
(Female) Primary Peshawar.

27

[Handwritten Signature]

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

NO 414 /ST

DATED 12/03 /2014


To,

The Secretary,
Education, KPK, Peshawar.

Subject: **APPEAL NO. 621/2013 MST SAJIDA BEGUM VS SECRETARY
E&SE AND OTHERS.**

I am directed to forward herewith a certified copy of order dated 7.3.2014 passed by this Tribunal on the above subject appeal for strict compliance within the stipulated period.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR

In Re: Service Appeal No.621 / 2013

Mst. Sajida Begum **Appellant**

V E R S U S

Govt of KPK and others..... **Respondents**

Application/Petition for Interim Relief

Reply on behalf of Respondent No. 4

Respectfully Sheweth:

1. That the appellant/petitioner has got no locus standi to file the present application/petition.
2. That the appellant/petitioner is estopped by her own conduct to bring the application/petition in hand.
3. That the appellant/petitioner has come to the court with unclean hands, she has suppressed the material facts from the Honourable Court and tried to mislead, her application/petition deserves dismissal on this score alone.
4. That the application/petition is pregnant with malafide intentions.
5. That the petition is not maintainable in its present form.
6. That in pursuance of transfer order, the replying respondent No. 4 took the charge on 08.03.2013 and is performing duty in JICA Model Primary School Hayatabad, Peshawar. (Copy of Certificate of Transfer of Charge is attached as Annexure A)

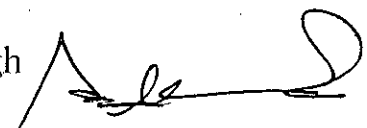
ON FACTS:

1. Needs no reply.
2. That in reply to the contents of Para No.2 of the application/petition, it is submitted that grounds of the appeal are not worth consideration, therefore, cannot be read as an integral part of this application/petition.
3. Incorrect, the applicant/petitioner has got no case, what to speak of a prima facie case, and there is no hope of her success.
4. Incorrect, as stated in the preceding para, the replying respondent has assumed the charge on 08.3.2013 and is performing her duty in JICA Model Primary School Hayatabad, Peshawar.
5. Incorrect and perverse, on the other hand great inconvenience would be caused to the replying respondent due to issuance of interim order.
6. Incorrect, the transfer order is legal.
7. Incorrect and false, the public interest demands that the transfer order may be maintained.

It is, therefore, prayed that on acceptance of this reply, the application/petition in hand being devoid of force and without substance, be dismissed with costs.

Respondent No.4

Through



Shakeel Ahmad

Date: ___/___/2013 Advocate Supreme Court

BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR

In Re: Service Appeal No.621 / 2013

Mst. Sajida Begum.....Appellant

V E R S U S

Govt of KPK and others.....Respondents

AFFIDAVIT

I, Mst. Ulfat Yasmeen S.E.T, JICA Model Primary School, Hayatabad Peshawar (respondent No. 4), do hereby solemnly affirm and declare that the contents of the accompanying **Reply** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.


DEPONENT

BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR

In Re: Service Appeal No.621 / 2013

Mst. Sajida Begum **Appellant**

V E R S U S

Govt of KPK and others..... **Respondents**

**Appeal u/s 4 of the KPK
Service Tribunal Act, 1974**

**Comments on behalf of the
respondent No. 4**

Respectfully Sheweth:

1. That the appellant has got no locus standi to file the present appeal.
2. That the appellant is estopped by her own conduct to bring the appeal in hand.
3. That the appellant has come to the court with unclean hands, she has suppressed the material facts from the Honourable Court and tried to mislead, her appeal deserves dismissal on this score alone.
4. That the appeal is pregnant with malafide intentions.

5. That the appeal is bad due to mis-joinder or non-joinder of necessary parties.
6. That the appeal is not maintainable in its present form.
7. That with due respect the Honourable Court lacks jurisdiction to adjudicate upon the matter.
8. That appeal is barred by time.
9. That in pursuance of transfer order, the replying respondent No. 4 took the charge on 08.03.2013 and is performing duty in JICA, Model School Hayatabad, Peshawar. (Copy of Certificate of Transfer of Charge is attached as Annexure A)

ON FACTS:

1. Requires proof. The appellant has always been in practice to escape from her main duty i.e. teaching the children, and getting choice posting on non-teaching posts such as ADO(F) Nowshera, ADO(F) Hayatabad Circle Peshawar, Head/Principal GGCM Primary School Bara Sheikhan and Head/Principal JICA Model Primary School Hayatabad Peshawar. Would the appellant like to inform this Honourable Court that out of her total claimed length of service as an SST/SET, how many years she has performed her actual/basic duty?
2. That in reply to the contents of Para No.2 of the appeal, it is submitted that the appellant belongs to District Bannu, both

her and her spouse home town is Mohallah Nawab, Bannu City where their votes have been registered in Block Code: 051070203 at Serial No. 332 and 400 respectively as per Election Commission of Pakistan's record by messaging their CNIC Nos. 1730158285344 and 1730135897219 to ECP No. 8300. She was appointed as SET on 12.07.1999 and was posted at GGHS No.1, Bannu, she got herself transferred outside Bannu District by using political influence of her spouse, a so-called politician and unsuccessful candidate for PK-5. (Copy of proof of her domicile, and advertisement for election campaign of her spouse in the Daily Aaj Peshawar dated 03.5.2013 are attached as Annexure B & C)

3. Requires proof.
4. Pertains to record.
5. That in reply to the contents of para No.5 of the appeal it is submitted that the allegation of putting political pressure is incorrect and false, the replying respondent was transferred and posted in GGHS No.2, Peshawar Cantt vide office order dated 31.07.2004, she served there till 06.03.2013, her transfer and posting at JICA Model Girls Primary School, Hayatabad Peshawar is in routine manner, to complete a normal tenure is not the requirement of law, a government servant is liable to be posted and serve anywhere throughout the province. Replied accordingly.

6. Needs no reply.
7. That the appellant has missed the train by late submission of her departmental appeal on 29.3.2013 contrary to the provision of seven days period in section XIV of the Posting/Transfer Policy of the Provincial Government. She approached to this Honourable Court on 09.4.2013 i.e. after 34 days of her transfer order and the Honourable Court granted her status quo on 10.4.2013, the order was never officially communicated to the respondents till the hearing date i.e. 02.5.2013, but despite that pay of respondent No.4 was illegally stopped and she has been deprived of her pay for the month of April 2013 due to political influence of appellant's spouse.
8. Incorrect and perverse, the transfer order is legal, coram-judice and is not based on political consideration.

GROUND S:

- A. Incorrect & misleading, to complete the normal tenure is neither a legal requirement nor offends any statutory law/ rules, even appellant never completed her normal tenure at her first posting station/home town i.e. GGHSS No.1 Bannu and got herself transferred at her choice posting just few months after her appointment using political influence of her spouse.

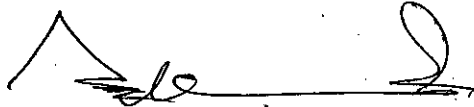
- B. That allegation as set forth is false, no political pressure was put forth by the replying respondents, her transfer is a result of routine order.
- C. Misleading, the appellant is a domicile holder of District Bannu, Hayatabad is not the home town of the appellant, no government servant can claim posting of her/ his choice in a particular place. As stated above, she being government servant is liable to be posted and transferred anywhere, no vested, accrued or legal right of the appellant has been infringed. Replied accordingly.
- D. Denied for want of knowledge.
- E. Incorrect and misleading, Election Commission of Pakistan had never banned transfers till 06.3.2013; the transfer order is a result of routine order.
- F. Incorrect, misleading and perverse. The transfer order is legal and does not offend public interest or any provision of law. In fact the appellant has always escaped from her main duty of teaching and has always managed to remain posted on non-teaching posts such as ADO(F) Nowshera, ADO(F) Hayatabad Peshawar, Head/Principal GGCM Primary School Bara Sheikhan and Head/Principal JICA Model Primary School Hayatabad Peshawar. Let the children be enlightened with her teaching at some high/higher secondary school in the best public interest.

- G. Incorrect and false. Detailed reply has been given in the above paras.
- II. Incorrect and false, the transfer order is legal, just and not result of political consideration, it does not offend any statutory provision. Replied accordingly.
- I. Needs no reply.

It is, therefore, prayed that on acceptance of this reply, the appeal being devoid of force and without substance, be dismissed with costs.

Respondent No.4

Through



Shakeel Ahmad
Advocate Supreme Court

Date: ___/___/2013

BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR

In Re: Service Appeal No.621 / 2013

Mst. Sajida Begum.....Appellant

V E R S U S

Govt of KPK and others.....Respondents

AFFIDAVIT

I, Mst. Ulfat Yasmeen, S.E.T, JICA Model Primary School, Hayatabad Peshawar (respondent No. 4), do hereby solemnly affirm and declare that the contents of the accompanying **Comments** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.


DEPONENT

پشاور ایسٹ آباد اسلام آباد اور کراچی سے بیک وقت شائع ہونے والا کثیر الاشاعت قومی روزنامہ

روشن کن کی ضمانت آج کا نصب العین

روزنامہ

ایڈیٹر
عبدالواحد یوسفی

صفحات 12

جلد 24 جمعہ 3 مئی 2013 بجائی الراتی 1434ھ - 12 مئی 1913ء ای 114

پشاور
پاکستان

<p>حاجی</p>	<p>NA-3 تھکاڑی</p>	<p>تقاضی</p>
<p>ملک اسرار 136</p>	<p>آزاد امیدوار برائے صوبائی اسمبلی حلقہ 5-PK پشاور-5 خیبر پختونخوا انتخابی نشان استری عبدالوحید نیازی نوجوان قیادت نڈرنے والا نہ بکنے والا نہ جھکنے والا</p>	<p>تھکا</p>

53

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

SERVICE APPEAL NO: 621/2013

MS SAJIDA BEGUM SST JICA MODEL SCHOOL HAYATABAD, PESHAWAR.

-----Applicant

VERSUS

1 Secretary Elementary & Secondary Education Department, Government of Khyber Pakhtunkhwa, Peshawar & others.

-----Respondents

PARAWISE COMMENTS/REPLY FOR AND ON BEHALF OF THE RESPONDENTS No: 1 to 3.

Respectfully Sheweth:-

Preliminary objections

- 1 The appellant has no cause of action/locus standi.
- 2 The appellant has concealed the material fact from this Hon! able Tribunal hence liable to be dismissed.
- 3 The appellant has not come to Hon! able Court with clean hands.
- 4 The present appeal is liable to be dismissed for non joinder/mis-joinder for necessary parties
- 5 The appellant has filed the instant appeal on malafide motives.
- 6 The instant appeal is against the prevailing laws & rules.
- 7 The appellant is stopped by his own conduct to file in present appeal.
- 8 The instant appeal is not maintainable in the present form & also in the present circumstances of the issue.
- 9 This Hon !able Court has no jurisdiction to adjudicate the present appeal.
- 10 That Section-10 of the Khyber Pakhtunkhwa Civil Servant Act 1973, empowers the Executive authority regarding posting/transfer of a civil servant to any where in the Province or outside, including the petitioner.
- 11 A civil servant can hold a post during the pleasure of Executive Authority of the Province.
- 12 The appellant wants to stick to post of his own choice i.e SST at JICA Model school Hayatabad. And thus pursuing posting of the choice is in violation of the provisions, contained in the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) rules 1989 and posting/transfer policy

FACTS.

- 1 This para pertains to service record of the appellant hence no comments.
- 2 This para also related to appellant and contained irrelevant statement of the appellee regarding the present issue.
- 3 As replied in para above.

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- 4 This para also related to appellant hence needs no comments.
 - 5 Incorrect. The order dated 6-3-2013 was issued in the interest of public service and not under the Political pressure.
 - 6 This para pertains to record of court hence no comments.
 - 7 The competent authority rejected the departmental appeal of the appellant.
 - 8 Incorrect & not admitted. The mentioned order is legal, lawful, according to the transfer/posting policy in field, in the best interest of public service. While the present appeal is based on malafide intentions, hence liable to be dismissed inter alia on the following grounds :-

ON GROUNDS

- A Incorrect. The completion of tenure is not compulsory while the mentioned order was made in the interest of public service in accordance with rule(i) of posting, transfer policy dated 15-2-2003 (Annexure-I of the appeal) While the prayer of the appellant in appeal in hand is in the violation of rule ii of the said policy.
- B Incorrect & not admitted. The statement of the appellant in this para is against the facts, laws rules & policy on the subject.
- C Incorrect. The appellant is transferred with in her home town. The distance between the two schools is few kilometers.
- D The statement of the appellant in this para amount to self praise.
- E Incorrect & not admitted.
- F Incorrect and not admitted. The statement of the appellant in this para is against the facts, rules, laws & policy on the subject, false and based on malafide motives, hence denied.
- G Incorrect & denied. The mentioned order is issued in public interest, in accordance with law rules on the subject.
- H Incorrect. The said order is legal, lawful by the competent authority, passed within jurisdiction, in the best interest of public and in accordance with the transfer & posting policy.
- I That the respondents seek the permission of this Hon' able Tribunal to adduce additional grounds and proofs at the hearing of this appeal.

In view of the above submission, it is requested that this Hon'able Tribunal may very graciously be pleased to dismiss the appeal with cost in favour of the respondent Department.

Secretary

Elementary & Secondary Education
Department, Government of Khyber
Pakhtunkhwa Peshawar

Director

Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar.

36

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

SERVICE APPEAL NO: 621/2013

MS SAJIDA BEGUM SST JICAA MODEL SCHOOL HAYATABAD, PESHAWAR.
-----Applicant

VERSUS

1 Government of Khyber Pakhtunkhwa, through Secretary Elementary & Secondary Education Department, , Peshawar & others.


-----Respondents

An application for withdrawal of suspension order granted by this Hon!able Tribunal and reply to the application for the suspension of the transfer order dated 6-3-2013

Respectfully Sheweth:-

- 1 The appellatant has no reason/cause of action to file the instant application and appeal, under section-10 of civil servant Act 1973.
- 2 That the facts and grounds mentioned in the main appeal are irrelevant against the law, rules & policy on the subject.
- 3 As mentioned/stated above has not prima facie case and there is not likelihood of its success because every civil servant shall be liable to serve any where with in or out side the Province. While the appellatant is transferred within her own district and at distance of few Kilometers, hence the application in hand is liable to be stuck off.
- 4 That not obeying the transfer order by appellatant amounts to misconduct.
- 5 The appellatant has no irreparable loss if the transfers order 6-3-2013 is implemented. While on the other hand the department & kids of the nation would suffer irreparable loss. The balance of convenience also lies in favour of the respondent department.
- 6 Incorrect & not admitted. The order panes is in accordance with law.
- 7 The appellatant has very weak case, being devoid of any merit hence it will also against the interest of justice if the suspension or order granted by this Hon!able Tribunal not withdrawn.

In view of the above made submission s, it is therefore requested that ths Hon!able Tribunal may very be pleased to withdraw the suspension orders granted by this Hon!able court. This Hon!able Tribunal may further be pleased to dismiss the present application of the appellatant alongwith main appeal, with cost in favour of the respondents.


Director
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar.

Before the Justice Tribunal
KPK

Sajida Begum - vs .. Govt of KPK
& others
Be fixed
at an early
available date.
Petitioner for early hearing
of the Captive Case
Respectfully Submitted, 28/10/13.

It - the Captive Case may be fixed
for hearing/arguments for the 27.

It - the Case may be adjourned to
20-12-2013, the matter pertains
to transfer, wherein interim relief
has been granted to the applicant,
in view of the petition.

It is, therefore, prayed that
in acceptance of this petition the
Captive Case may be fixed
for hearing earlier than the date
fixed.

Respectfully,
Sd/-
Javed Ali
Khalid

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

In the matter of
 Appeal No. 621 / 2013

Mst. Sajida Begum SST, JICA Modal School, Hayatabad, Peshawar.
 (Appellant)

VERSUS

Govt of Khyber Pakhtunkhwa, through Secretary Elementary &
 Secondary Education Department, Khyber Pakhtunkhwa, Peshawar
 and others..... (Respondents)

REPLICATION ON BEHALF OF THE APPELLANT

Preliminary Objections:

1. Contents incorrect and false, the appellant has illegally been transferred without allowing her to complete her normal tenure, he has thus got the necessary cause of action and Locus Standi.
2. Contents incorrect and false, all facts necessary for the disposal of the instant appeal are brought before this Honourable Tribunal and nothing has concealed.
3. Contents incorrect and misleading, the appellant has come to the tribunal with clean hands.
4. Contents incorrect and false, all parties necessary for the disposal of the instant appeal are arrayed as parties in the instant appeal.
5. Contents incorrect and false, the appellant has a valid cause of action against the respondents and has thus filed the instant appeal, no malafide motive is involved on part of the appellant, rather the actions of the respondents are with malifide motives.
6. Contents incorrect and misleading, the appeal is well in accordance with the prevailing laws and rules.
7. Contents incorrect and false, no rule of estoppel is applicable in the instant case.
8. Contents incorrect and misleading, the appeal being filed well in accordance with the prescribed rules and procedure, hence maintainable in its present form and circumstances.
9. Contents incorrect and misleading, the appeal being related to the terms and conditions of service of the appellant, hence only this

Honourable tribunal has got the jurisdiction to adjudicate the present appeal.

10. Contents incorrect and false, the transfer and posting of the Civil Servants are governed under the Transfer and Posting Policy of the Provincial Govt. wherein a specific tenure is specified for civil servants, the same has been violated in the instant case.
11. Contents incorrect and misleading, moreover as explained above in para 10.
12. Contents incorrect and misleading, the appellant has never wanted to stick to the post of her own choice she had served for more then 12 years outside her home town. Moreover, the respondents have violated the rules refereed in the para, by issuing illegal premature and politically motivated impugned transfer order.

Facts of the Case:


1. Contents need no reply however contents of Para 1 of the appeal are correct.
2. Contents need no reply however contents of Para 2 of the appeal are correct.
3. Contents need no reply, however contents of Para of the appeal are correct, moreover as replied above.
4. Contents need no reply however contents of Para of the appeal are correct.
5. Contents of Para 5 of the appeal are correct. The reply submitted to the Para is incorrect and false.
6. Contents need no reply however contents of Para 6 of the appeal are correct.
7. Contents need no reply however contents of Para 7 of the appeal are correct, moreover while rejecting the appeal of the appellant, she has not been treated in accordance with law and rules.
8. Contents of Para 8 of the appeal are correct. The reply submitted to the Para is incorrect and false.

Grounds of Appeal:

The Grounds (A to I) of appeal taken in the memo of appeal are legal will be substantiated at the hearing of this appeal.


It is, therefore, prayed that on acceptance of this replication the service appeal of the appellant be accepted as prayed for.


Appellant

Through 

IJAZ ANWAR
Advocate Peshawar

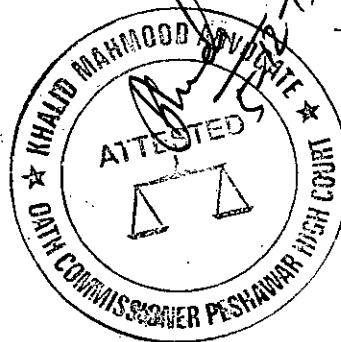
&


SAJID AMIN
Advocate, Peshawar.

AFFIDAVIT

I do hereby solemnly affirm and declare on oath that the contents of the above replication as well as appeal are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.


Deponent



BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

In the matter of
 Appeal No. **621** / 2013

Mst. Sajida Begum SST, JICA Modal School, Hayatabad, Peshawar.
(Appellant)

VERSUS

Govt of Khyber Pakhtunkhwa, through Secretary Elementary &
 Secondary Education Department, Khyber Pakhtunkhwa, Peshawar
 and others..... **(Respondents)**

REPLICATION ON BEHALF OF THE APPELLANT

Preliminary Objections:

1. Contents incorrect and false, the appellant has illegally been transferred without allowing her to complete her normal tenure, he has thus got the necessary cause of action and *Locus Standi*.
2. Contents incorrect and false, all facts necessary for the disposal of the instant appeal are brought before this Honourable Tribunal and nothing has concealed.
3. Contents incorrect and misleading, the appellant has come to the tribunal with clean hands.
4. Contents incorrect and false, all parties necessary for the disposal of the instant appeal are arrayed as parties in the instant appeal.
5. Contents incorrect and false, the appellant has a valid cause of action against the respondents and has thus filed the instant appeal, no malafide motive is involved on part of the appellant, rather the actions of the respondents are with malifide motives.
6. Contents incorrect and misleading, the appeal is well in accordance with the prevailing laws and rules.
7. Contents incorrect and false, no rule of estoppel is applicable in the instant case.
8. Contents incorrect and misleading, the appeal being filed well in accordance with the prescribed rules and procedure, hence maintainable in its present form and circumstances.
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11. Contents incorrect and misleading, moreover as explained above in para 10.
12. Contents incorrect and misleading, the appellant has never wanted to stick to the post of her own choice she had served for more then 12 years outside her home town. Moreover, the respondents have violated the rules refereed in the para, by issuing illegal premature and politically motivated impugned transfer order.

Facts of the Case:

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4. Contents need no reply however contents of Para of the appeal are correct.
5. Contents of Para 5 of the appeal are correct. The reply submitted to the Para is incorrect and false.
6. Contents need no reply however contents of Para 6 of the appeal are correct.
7. Contents need no reply however contents of Para 7 of the appeal are correct, moreover while rejecting the appeal of the appellant, she has not been treated in accordance with law and rules.
8. Contents of Para 8 of the appeal are correct. The reply submitted to the Para is incorrect and false.

Grounds of Appeal:


The Grounds (A to I) of appeal taken in the memo of appeal are legal will be substantiated at the hearing of this appeal.

It is, therefore, prayed that on acceptance of this replication the service appeal of the appellant be accepted as prayed for.




Appellant

Through



IJAZ ANWAR
Advocate Peshawar

&



SAJID AMIN
Advocate, Peshawar.

AFFIDAVIT

I do hereby solemnly affirm and declare on oath that the contents of the above replication as well as appeal are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal.



Deponent

97. me page 178.

the MR. K.P. was
desired to transfer Mr. Udit
SST 4445 No. 2 post at
may be proposed to JICA
Model School Hujat school.

98.

It is intimated that
Mr. Sujide Begum SST (CU)
is working at the said school
since Feb, 2012.

99.

My brother the SST he
Transfered to school.

100.

see enclosed

Excell.

see
6/3/13

101

May the DE of Post
be asked to intimate that
the post available or
otherwise

Submitted pl.

MR

6/3

Accepted
Deputy Director (Female)
Elementary & Secondary Education
Kalyan, Maharashtra

Agg → para-101

37
6/3/2013

102 DDESA)

Signed on 18/04

6/3/13

103 Delp)

104

Page 180

As directed by the
County Director ^{copy} ^{copy} ^{copy}
on P-180/F is submitted
for sig 18/04/13

MW
G3

~~Y/M~~
app

AS above ps.

G3

105

1466-71

6/3/13

Attested
EMPOWERED BOARDS
Deputy Director, Education & Training
Elementary & Secondary Education
Khyber Pakhtunkhwa

(19)

Directorate of Elementary & Secy: Education
Khyber Pakhtunkhwa Peshawar

No. 779 / F.No. 58/SST (F) Transfers.
Dated Peshawar the 5/4 2013

To

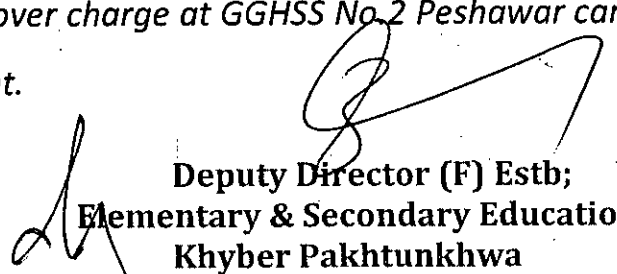
Mst. Sajida Begum SST
JICA Model School Hayatabad
Peshawar

Subject: - APPEAL FOR CANCELLATION OF TRANSFER ORDER.

Dear Sir,

I am directed to refer to your appeal No. nil dated 29-03-2013 on the subject cited above and to state that your appeal has rejected by the competent authority and you are directed to take over charge at GGHSS No.2 Peshawar cantt immediately being your new assignment.

Endst No. 780-81


Deputy Director (F) Estb;
Elementary & Secondary Education
Khyber Pakhtunkhwa

Copy of the above is to:

1. Principal GGHSS No. 2 Peshawar cantt.
2. PA to Director (E&SE) Khyber Pakhtunkhwa Peshawar.


Deputy Director (F) Estb;
Elementary & Secondary Education
Khyber Pakhtunkhwa

Accepted

Deputy Director Estab. (Female)
Elementary & Secondary Education
Khyber Pakhtunkhwa

190

To

**The Directorate of Elementary & Secondary
Education, Khyber Pakhtoonkhwa, Pakistan**

Subject: Appeal for Cancellation of Transfer Order

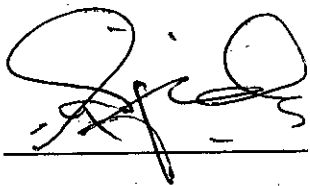
Dear Sir,

With great reverence it is stated that, I have been working as SST (**Senior School Teacher**), PBS 17 for last **14(fourteen)** years, in this span of time, mostly I served the Education department in out of station, away from my home town, Hayatabad. I work for more than 4 years in Nowshera as ADEO and for more than 8 years in Government Midle School Barha Shekhan. This is understood that Being a female how I would be suffered while working in remote and un-secure areas like Barah Sheikan, where male entry was almost impossible but I did my duty bravely and fulfill my responsibilities.

After almost **12 years** suffering I have been transferred to JICA Model School, Hayatabad on **30 April 2012**, but unfortunately, the Directorate of Elementary & Secondary of Education, Khyber Pakhtunkhwa issued my transfer order (**Endst: No: 1448-53, dated : 06/03/2013**) without completing my tenure and any other solid reason.

Therefore it is requested to consider the subject appeal and may issue cancelation of above mentioned transfer order. I will be highly thankful to you for this act of kindness.

Sincerely Yours,



Sajida Begum, SST,
JICA Model School, Hayatabad,
Peshawar, Khyber Pakhtunkhwa, Pakistan.

DDEF
29/3/2013

