

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR,
AT CAMP COURT ABBOTTABAD

Service Appeal No. 422/2022

BEFORE: **MRS. ROZINA REHMAN,** ... **MEMBER (J)**
 MISS. FAREEHA PAUL, ... **MEMBER(E)**

**Shehzad Yousaf Abbasi S/o Muhammad Yousaf, R/o Dalola
Tehsil & District Abbottabad.**

....(Appellant)

Versus

1. **Govt. of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Peshawar and three others.**
2. **Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.**
3. **Assistant Director (Establishment) Directorate (E&SED) Khyber Pakhtunkhwa, Peshawar.**
4. **Mr. Waseem Fazal S/o Fazal ur Rehman, Ex District Sports Officer Abbottabad.**

... (Respondents)

Mr. Muhammad Zareed Qureshi,
Advocate

For appellant.

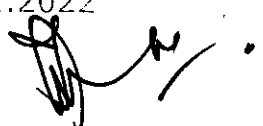
Mr. Muhammad Adeel Butt,
Addl. Advocate General

For respondents.

Date of Institution.....25.03.2022
Date of Hearing.....16.05.2022
Date of Decision.....16.05.2022

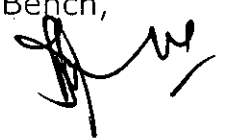
JUDGMENT

FAREEHA PAUL MEMBER (E). The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the impugned order dated 26.01.2022



through which order dated 05.01.2022 has been restored with the request that it may be set aside and respondent No. 2 may be directed to restore withdrawal of transfer order dated 26.01.2022, and not to implement restoration order.

2. Brief facts, as per memorandum of appeal, are that the appellant is serving as Assistant District Education Officer (P&D) in the office of District Education Officer (Female) Abbottabad. He was appointed as Assistant Returning Officer by the Provincial Election Commission for the conduct of local body election in Khyber Pakhtunkhwa. Election Commission of Pakistan through its notification dated 20.01.2022 imposed ban on posting/transfer orders till publication of results of election. On 02.12.2021 through a notification of Elementary & Secondary Education Department, Khyber Pakhtunkhwa services of the Respondent No. 4 were placed at the disposal of District Education Officer (Male) Abbottabad. On 22.12.2021 the Directorate of Elementary & Secondary Education Department (Respondent No. 2) issued a notification through which services of Respondent No. 4 were placed in the office of District Education Officer (Female) Abbottabad, as ADEO (P&D) and the appellant who was working at that position was posted as ADEO (Sports) in the office of DEO (Male) Abbottabad as a stop gap arrangement. On 05.01.2022 respondent No. 2 withdrew the transfer order dated 22.12.2021. After that on 26.01.2022 respondent No. 2 restored the order dated 05.01.2022 to the extent of appellant. Feeling aggrieved the appellant submitted departmental appeal dated 26.01.2022 which was not responded. He, thereafter, filed writ petition before Hon'able Peshawar High Court, Abbottabad Bench,




which through its judgment dated 15.03.2022 sent the petition to Service Tribunal to be treated as an appeal; hence the service appeal.

3. Respondents were put on notice who submitted their written replies/comments on contents of the appeal.

4. After hearing the arguments of learned counsel for the appellant as well as the learned Additional Advocate General we have come to the conclusion that the appellant had challenged his transfer in the light of a notification of Election Commission of Pakistan wherein ban was imposed on posting/transfer till such time that the results of the election were announced. Now entire process has been over and ban on posting/transfer is no more in place, the government is at liberty to post the appellant at any place which it deems fit. The appeal in hand has thus become infructuous and is dismissed. Parties are left to bear their own costs. Consign.

5. *Pronounced in open court in Abbottabad and given under our hands and seal of the Tribunal on this 16th day of May, 2022.*


(ROZINA REHMAN)
Member (J)


(FAREEHA PAUL)
Member (E)

13.06.2022

Appellant alongwith junior to counsel for appellant present.

Noor Zaman Khan Khattak, learned District Attorney for official respondents No.1 to 3 present. Private respondent No.4 alongwith counsel present.

At the very outset learned counsel for private respondent No.4 relied upon the comments already submitted by official respondents No.1 to 3. Despite directions, counsel for appellant did not ~~attend~~ appear before this Bench for arguments, ^B being busy in august Peshawar High Court and then in some personal matters, junior to counsel is directed to make sure the presence of senior counsel for arguments on the next date as the matter is in respect of transfer and has been pending since long. To come up for arguments on 15.06.2022 before D.B at Camp Court, Abbottabad.



(Fareeha Paul)
Member (E)
Camp Court, A/Abad



(Rozina Rehman)
Member (J)
Camp Court, A/Abad

13.05 2022

Nemo for the appellant.


Notice be issued to the appellant and his counsel for 17.05.2022 before S.B at Camp Court, Abbottabad.


(Kalim Arshad Khan)
Chairman

17.05.2022

None for the appellant present. Mr. Muhammad Riaz Khan, Assistant Advocate General for respondents present.

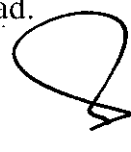
To come up for arguments before S.B on 19.05.2022 at camp court Abbottabad.


(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad

19.05 2022

Counsel for the appellant present. Mr. Naseer Uddin Shah, Assistant AG for the respondents present.

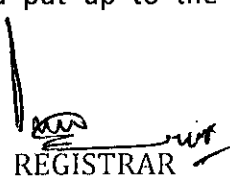
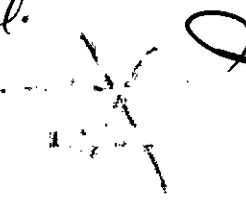
Notice be issued to the private respondent No. 4 for submission written reply/comments. To come up for reply/comments as well as arguments before D.B on 13.06.2022 at camp court Abbottabad.


(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 422/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	25/03/2022	<p>The present appellant initially went in Writ Petition before the Hon'ble Peshawar High Court Peshawar and the Hon'ble High Court vide its order dated 15.03.2022 while treating the Writ Petition into an appeal and has sent the same to this Tribunal for decision in accordance with law. The same may be entered in the Institution register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	17/5/22	<p>This case is entrusted to Single Bench at Peshawar for preliminary hearing to be put up there on <u>13.05.2022</u> <i>Notice be issued to the appellant and his counsel.</i></p> <p style="text-align: right;"> CHAIRMAN</p>



THE
PESHAWAR HIGH COURT
ABBOTTABAD BENCH.

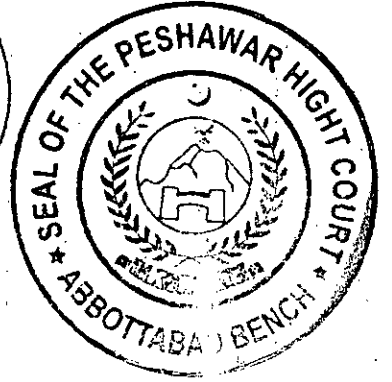
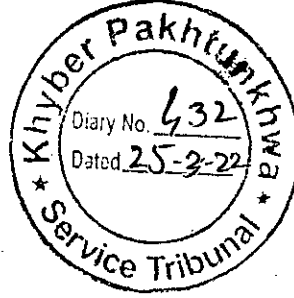
PH: 0992-921058
FAX: 0992-91055

No: 235

Dated Abbottabad 17/03 /2022

From:

The Additional Registrar,
Peshawar High Court,
Abbottabad Bench.



To,

The Worthy Chairman,
Service Tribunal, Khyber Pakhtunkhwa,
Peshawar.

Subject: WRIT PETITION NO. 139-A of 2022.

Shahzad Yousaf

.....Petitioners

VERSUS

Govt. of Khyber Pakhtunkhwa & others.

.....Respondents

Respected Sir,

I am directed to forward herewith original writ petition bearing No. 139-A/2022, titled "Shahzad Yousaf VS Govt. of Khyber Pakhtunkhwa & others" alongwith judgment dated 15.03.2022, passed by the Honourable Division Bench in the above noted case for further necessary action please.

S. Ullat J
Additional Registrar
12

1

PESHAWAR HIGH COURT, ABBOTTABAD BENCH.

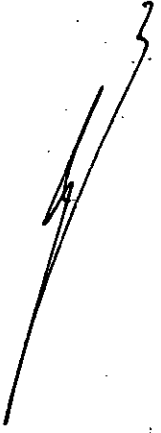
FORM OF ORDER SHEET

Court of

Case No. of

1	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary.
	15-03-2022	<p style="text-align: center;">3</p> <p><u>WP No. 139-A/2022 with Interim Relief.</u></p> <p>Present: <i>Mr. Muhammad Zareed Qureshi, Advocate for the petitioner.</i></p> <p><i>Raja Muhammad Zubair, AAG for the official respondents along with respondent No. 4 in person.</i></p> <p style="text-align: center;">*****</p> <p><u>WIQAR AHMAD, J.-</u> This order is directed to dispose of the petition filed by petitioner under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 with the following prayer;</p> <p style="text-align: center;">“On acceptance of instant writ petition, impugned order Endst: No. 09458-63 dated 26.01.2022 may be set aside and respondent No. 2 may graciously be directed to restore withdrawal of transfer order Endst: No. 9458-63 dated 26.01.2022 and issue direction to not implement the restoration order No. 9458-63. Any other relief which this honourable Court deems appropriate in the circumstances of the case may also be granted to the petitioner.”</p> <p><u>2.</u> Learned counsel for petitioner relied upon judgment of the Hon'ble Supreme Court of Pakistan given in the case of <u>Sarfraz Saleem vs. Federation of Pakistan and others</u> reported as <u>2014 PLC (C.S.) 884</u> and contended that the Khyber Pakhtunkhwa Service</p>

SCANNED



Tribunal (hereinafter referred to as the "Tribunal") has not been functional at the moment as appointment of a new Chairman has not been notified. He further contended that despite the ban imposed on transfers/postings through notification issued by the Election Commission of Pakistan dated 20th January, 2022, the impugned transfer order of the petitioner has been issued.

3. We would not enter into merits of the controversy as the matter pertains to terms and conditions of Service of the petitioner, which exercise may prejudice case of either party before the Tribunal. We in the circumstances would direct that the instant petition along with comments of the respondents, be sent to the Tribunal, where it shall be treated as an appeal. Till the Tribunal becomes functional, the impugned transfer order of the petitioner shall not be implemented. Copy of the petition in hand be retained for office record.

Announced
Dt: 15.03.2022

JUDGE

JUDGE

پشاور ہائی کورٹ ایبٹ آباد بینچ

Writ Petitions

W.P 139/2022

Shehzad Yousaf V/s Govt etc

15 March 2022

وقت 10 بجے کے بعد ہنگامہ ایبٹ آباد میں
مطلع کیا گیا ہے کہ آپ کو یہ نوٹس دیا گیا ہے کہ
اساتذہ اور اساتذہ کی تنخواہوں کی صورت میں آپ کے خلاف کیفری کارروائی کی گئی ہے اور
نوٹس ایبٹ آباد میں دیا گیا ہے اور آپ کو نوٹس دیا گیا ہے کہ آپ کو نوٹس دیا گیا ہے کہ
اپنے معاملات چکانے کے لیے اس وقت کے متعلقہ اداروں سے رابطہ کرنا چاہئے۔

ایڈیشنل رجسٹرار

10/03/2022

- 1 Govt. of KP through Secretary E&SE, KP, Peshawar.
- 2 Director Elementary & Secondary Education, KP, Peshawar.
- 3 Assistant Director (Establishment) Directorate (E&SE), KP, Peshawar.
- 4 Waseem Fazal S/o Fazal ur Rehman, Ex-District Sports Officer, Abbottabad.

2/3/22

wp 138A/22

Adjourned/Leftover by Hon'ble Court from 16-2-22 and fix before
Hon'ble Court D.B on 15-3-22. Inform petitioner/parties and
his/their counsel.

ADDITIONAL REGISTRAR

Adjourned/Leftover by Hon'ble Court from _____ and fix before
Hon'ble Court D.B on _____. Inform petitioner/parties and
his/their counsel.

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Adjourned/Leftover by Hon'ble Court from _____ and fix before
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Hon'ble Court D.B on _____. Inform petitioner/parties and
his/their counsel.

ADDITIONAL REGISTRAR

پشاور ہائی کورٹ ایبٹ آباد بینچ

Writ Petitions

W.P 139/2022

Shehzad Yousaf V/s Govt etc

16 February 2022

DB

07/02/2022

1 Govt. of KP through Secretary E&SE, KP, Peshawar.

2 Director Elementary & Secondary Education, KP, Peshawar.

3 Assistant Director (Establishment) Directorate (E&SE), KP, Peshawar.

4 Waseem Fazal S/o Fazal ur Rehman, Ex-District Sports Officer, Abbottabad.

**IN THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH
OPENING SHEET FOR WRIT BRANCH**

Case No. _____
Date of Filing: _____
District: _____

Case Type: WRIT PETITION

Nature of Original Proceedings:

Category Code:

(Categories & Sub Categories are given at the back of the opening sheet)

Review/ Contempt of Court in respect of

Writ of; Heabus Corpus Prohibition Mandamus Quo Warranto Certiorari

If Certiorari;

Forum	Date	Interlocutory /Final Order	Caste Pertains to
			<input type="checkbox"/> SB
			<input type="checkbox"/> DB

Petitioner Name	Shahzad Yousaf Abbasi son of Muhammad Yousaf
Mobile No.	
Address	Resident of Village Dalola Tehsil & District Abbottabad.
CNIC No.	
Email Address	

Counsel for Petitioner(s)	Muhammad Zareed Qureshi
Mobile No.	0333-5064929
Address	Office at District Courts, Abbottabad
CNIC No.	13101-0990215-1
Email Address	Zareedqureshi0007@gmail.com

Respondent(s)	Govt. Of KPK Through Secretary (E&SE) KPK Peshawar & others.
Address	Correctly given in the heading of writ petition.

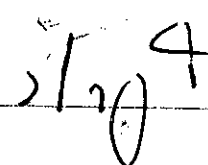
Original Order/ Action/ Inaction Complained of;
Writ Petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973.

Prayer;
Correctly given in the heading of writ petition

Law/Rules/Governing the original proceedings/action/Inaction

1. Constitution of Islamic Republic of Pakistan, 1973
- 2.
3. Other relevant case law will be cited at the bar.

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
21/07/22

Signature: 

BEFORE THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH

Service Appeal no. 422/2022

Writ Petition No. 139 -A/2022

Shahzad Yousaf Abbasi son of Muhammad Yousaf, resident of Village Dalola Tehsil & District Abbottabad.

....PETITIONER

VERSUS

Govt. of KPK through Secretary (E&SE) KPK Peshawar & others.

....RESPONDENTS

WRIT PETITION

INDEX

S. #	Description of documents	Page No.	Annexure
1.	Writ petition with affidavit and certificate	1 to 9	
2.	List of books	10	
3.	Addresses of the parties	11	
4.	Copy of notification	12	"A"
5.	Copy of notification	13 to 15	"A-1"
6.	Copy of Notification	16	"B"
7.	Copy of order dated 22/12/2021	17	"C"
8.	Copy of order dated 05/12/2022	18	"D"
9.	Copy of order dated 26/01/2022	19	"E"
10.	Copy of departmental appeal	20	"F"
11.	Copy of Notification of Appointment of Returning Officer	21	"G"
12.	Copy of notice and receipt	22 to 23	"H"
13.	Court fee stamp worth Rs. 500/-	24.	
14.	Wakalatnama		

...PETITIONER

Dated: 31/01/2022

Through

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

21/1/2022
(Muhammad Zareed Qureshi)
Advocate High Court, Abbottabad



**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.**

Phone: 091-9225344

Email: ddadina.esse@gmail.com

NOTIFICATION

The Competent Authority is pleased to transfer Mr. Jaffar Rehman SST (G) GHSS Tajwal District Abbottabad and post him as ASDEO Circle Natyia Gali Abbottabad as & when the post is vacated on stopgap arrangement in the best interest of public service.

TERMS & CONDITIONS


1. Posting/Adjustment of Teaching Cadre Officer shall be considered as stop-gap arrangement till the arrival of Management Cadre officers.
2. The order of the above mentioned Teaching cadre officer will be effective subject to the condition that they will give an undertaking/affidavit on legal paper/stamp paper to DEO (M) Abbottabad the effect, not to claim seniority of Management cadre.
3. Charge Report should be submitted to all concerned.
4. No TA/DA is allowed.
5. The terms & conditions mentioned in their appointment order as teaching cadre will remain intact.

DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa

4574-78
Encls: No. F.NO. F.NO.103/SST (M)/Transfers/Abbottabad Dated the Peshawar 06/06/2022

Copy forwarded to the:

1. District Education Officer (M) Abbottabad.
2. District Accounts Officer Abbottabad.
3. ASDEO (M) Natyia Gali District Abbottabad.
4. Principall/ Head Master GHSS Tajwal District Abbottabad
5. SST Concerned.
6. PA to E&SE KPK Peshawar.
7. Master Copy.


Assistant Director (Estab M.P.)
Elementary & Secondary Education
Peshawar



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

Dated Peshawar the May 30th, 2022

NOTIFICATION

NO.SO(MC)E&SED/4-16/2022/PT/MC-17/PROMOTION: Consequent upon their promotion to the post of SDEOs / Assistant Directors (Male & Female MC BS-17) notified vide Notification No SO(MC)E&SED/2-GDPC Meeting/ADEOs(M&F) dated 18-05-2022, the following posting/transfers/adjustment are hereby notified with immediate effect, in the best public interest:-

S#	Name of officers & designation	Place of posting
MALE		
1	Mr. Muhammad Hussain (MC BS-17)	SDEO (Male) Gumbat Kehat (AVP)
2	Mr. Muhammad Asif Khan (MC BS-17)	SDEO (Male) Pafan, Kechistan Lower (AVP)
3	Mr. Ataullah Shah (MC BS-17)	SDEO (Male) Ghazi Hangu (Vice Sr. No-1)
4	Mr. Wali Muhammad Khan (MC BS-17)	SDEO (Male) Gagra, District Buner (AVP)
	SDEO (Male) Ghazi Hangu	
5	Mr. Sadiq Zamin Shah (MC BS-17)	SDEO (Male) Nawajan District Bajaur (AVP)
6	Mr. Umar Farooq (MC BS-17)	SDEO (Male) Daggar District Buner (AVP)
7	Syed Inzarullah Shah (MC BS-17)	SDEO (Male) Jaran Peshawar (Vice Sr. No-8)
8	Mr. Zoullan (MC BS-17) SDEO (Male)	SDEO (Male) Dara Adam Khan Kehat (AVP)
	Town Peshawar	
9	Mr. Imtiaz Ali (MC BS-17)	SDEO (Male) Lower Mohmand (AVP)
10	Mr. Bikhari Ali Khan (MC BS-17)	SDEO (Male) Upper Mohmand (AVP)
11	Mr. Pir Muhammad (MC BS-17)	SDEO (Male) War, District Upper (AVP)
12	Mr. Sabir Shah (MC BS-17)	Assistant Director Directorate of E&SE (AVP)
13	Mr. Iran Gul (MC BS-17)	SDEO (Male) Wana, South Waziristan (AVP)
14	Mr. Tahir Ahmad (MC BS-17)	SDEO (Male) Miran, North Waziristan (AVP)
15	Mr. Zahur Qamar (MC BS-17)	SDEO (Male) Lower Orakzai (AVP)
16	Mr. Azeem Ullah (MC BS-17)	SDEO (Male) Shingole District Upper (AVP)
17	Mr. Wahid Rehman (MC BS-17)	SDEO (Male) Alai Bhattagram (AVP)
18	Sardar Ishaq Ali (MC BS-17)	SDEO (Male) Barwad, Kohistan Lower (AVP)
FEMALE		
19	Mst. Tasleem Kausar (MC BS-17)	SDEO (Female) Havelian Abbottabad (AVP)
20	Mst. Shaila Kalsoom (MC BS-17)	SDEO (Female) Sukh Division Jandola Tank (AVP)
21	Mst. Rubeela Naz (MC BS-17)	SDEO (Female) Dargai Malakand (AVP)
22	Mst. Razia Khatoon (MC BS-17)	SDEO (Female) Charsadda Swat (AVP)
23	Mst. Aisha Gohar (MC BS-17)	Assistant Director Directorate of E&SE (AVP)
24	Mst. Tahir un Nisa (MC BS-17)	SDEO (Female) Hangu (AVP)
25	Mst. Noreen Saba (MC BS-17)	SDEO (Female) Harban Basha Kohistan Upper (AVP)
26	Mst. Nuseera Begum (MC BS-17)	Assistant Director Directorate of E&SE (AVP)
27	Mst. Abida Nasreen (MC BS-17)	SDEO (Female) Razmak, North Waziristan (AVP)
28	Mst. Inam Noreen (MC BS-17)	SDEO (Female) Domat Bannu (AVP)
29	Mst. Bibi Zahida (MC BS-17)	SDEO (Female) Bara District Khyber (AVP)
30	Mst. Naseem Begum (MC BS-17)	SDEO (Female) Balambal District Lower (AVP)
31	Mst. Azra Afridi (MC BS-17)	SDEO (Female) Daggar Buner (AVP)
32	Mst. Shaisla Khan (MC BS-17)	SDEO (Female) Pafan Kechistan Lower (AVP)
33	Mst. Sabreena Fayaz (MC BS-17)	SDEO (Female) Tang Charsadda (AVP)
34	Mst. Shagufta Abbasi (MC BS-17)	SDEO (Female) Ghazi Hangu (AVP)
35	Mst. Sadiqa Bibi (MC BS-17)	SDEO (Female) Miran, North Waziristan (AVP)
35	Mst. Muneera Bibi (MC BS-17)	SDEO (Female) Terkhov Melkhow Chitral Upper (AVP)
37	Mst. Maryam Aman (MC BS-17) under transfer as SDEO (Female) Tangi Charsadda	Retained as Assistant Director Directorate of E&SE

4000
30.5.22

SECRETARY TO THE GOVT. OF KHYBER PAKHTUNKHWA



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

Dated Peshawar the May 30th, 2022

NOTIFICATION

NO. SO(MC)E&SED/4-16/2022/PT/MC-17/PROMOTION - Consequent upon their promotion to the post of SDEOs / Assistant Directors (Male & Female MC BS-17) notified vide Notification No SO(MC)E&SED/2-GDPC-Meeting/ADEO&M&F dated 18.05.2022, the following posting/transfers/adjustment are hereby notified with immediate effect in the best public interest -

Sr	Name of officers & designation	Place of posting
MALE		
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2	Mr. Muhammad Asif Khan (MC BS-17)	SDEO (Male) Pattan Kohistan Lower (AVP)
3	Mr. Abdullatif Shah (MC BS-17)	SDEO (Male) Ghazi Hattisa (Vice St. No-4)
4	Mr. Wali Muhammad Khan (MC BS-17)	SDEO (Male) Gajra District Buner (AVP)
5	SDEO (Male) Ghazi Haripur	SDEO (Male) Nawajan District Bajaur (AVP)
6	Mr. Sadiq Zaman Shah (MC BS-17)	SDEO (Male) Dargun District Buner (AVP)
7	Mr. Umar Farooq (MC BS-17)	SDEO (Male) Dargun District Buner (AVP)
8	Syed Insafulah Shah (MC BS-17)	SDEO (Male) Town Peshawar (Vice St. No 8)
9	Mr. Zaidan (MC BS-17) SDEO (Male)	SDEO (Male) Dara Adam Khan Kohat (AVP)
10	Mr. Imtiaz Ali (MC BS-17)	SDEO (Male) Lower Mianmand (AVP)
11	Mr. Imtiaz Ali Khan (MC BS-17)	SDEO (Male) Upper Mianmand (AVP)
12	Mr. Pir Muhammad (MC BS-17)	SDEO (Male) Wazir District Upper (AVP)
13	Mr. Saifullah Shah (MC BS-17)	Assistant Director Directorate of E&SE (AVP)
14	Mr. Iran Gul (MC BS-17)	SDEO (Male) Wana South Waziristan (AVP)
15	Mr. Tahir Ahmad (MC BS-17)	SDEO (Male) Miran North Waziristan (AVP)
16	Mr. Zahid Qadir (MC BS-17)	SDEO (Male) Lower Chakral (AVP)
17	Mr. Azeem Ullah (MC BS-17)	SDEO (Male) Springale District Upper (AVP)
18	Mr. Waqar Rehman (MC BS-17)	SDEO (Male) Alai Battagram (AVP)
19	Sardar Ishaq Ali (MC BS-17)	SDEO (Male) Barak Kohistan Lower (AVP)
FEMALE		
20	Mst. Tasleem Kausar (MC BS-17)	SDEO (Female) Havelian Abbottabad (AVP)
21	Mst. Shafa Kalsoom (MC BS-17)	SDEO (Female) Sub Division Jandala Tank (AVP)
22	Mst. Roheela Naz (MC BS-17)	SDEO (Female) Dargun Malakand (AVP)
23	Mst. Razia Khatoon (MC BS-17)	SDEO (Female) Charbagh Swat (AVP)
24	Mst. Aisha Gohar (MC BS-17)	Assistant Director Directorate of E&SE (AVP)
25	Mst. Tahir un Nisa (MC BS-17)	SDEO (Female) Hangu (AVP)
26	Mst. Noreen Saba (MC BS-17)	SDEO (Female) Harzan Basha Kohistan Upper (AVP)
27	Mst. Nareera Begum (MC BS-17)	Assistant Director Directorate of E&SE (AVP)
28	Mst. Abida Nareen (MC BS-17)	SDEO (Female) Razmak North Waziristan (AVP)
29	Mst. Irum Noreen (MC BS-17)	SDEO (Female) Doman Eannu (AVP)
30	Mst. Bibi Zahida (MC BS-17)	SDEO (Female) Bara District Khyber (AVP)
31	Mst. Naseem Begum (MC BS-17)	SDEO (Female) Dalambat District Lower (AVP)
32	Mst. Azra Afridi (MC BS-17)	SDEO (Female) Dargun Buner (AVP)
33	Mst. Shaista Khan (MC BS-17)	SDEO (Female) Pattan Kohistan Lower (AVP)
34	Mst. Sabreena Fayaz (MC BS-17)	SDEO (Female) Tang Charaidia (AVP)
35	Mst. Shagufta Abbasi (MC BS-17)	SDEO (Female) Ghazi Haripur (AVP)
36	Mst. Sadiqa Bibi (MC BS-17)	SDEO (Female) Miran North Waziristan (AVP)
37	Mst. Muneera Bibi (MC BS-17)	SDEO (Female) Terkhaw Mulkhaw Chitral Upper (AVP)
		Assistant Director Directorate of

30.5.22

Faree
Kaleem

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR,
AT CAMP COURT ABBOTTABAD.

Service Appeal No. 422/2022

BEFORE: **MRS. ROZINA REHMAN,** ... **MEMBER (J)**
MISS. FAREEHA PAUL, ... **MEMBER(E)**

**Shehzad Yousaf Abbasi S/o Muhammad Yousaf, R/o Dalola Tehsil
& District Abbottabad.**

....(Appellant)

Versus

**1. Govt. of Khyber Pakhtunkhwa through Secretary (E&SE)
Peshawar and three others.**

....(Respondents)

Mr. Muhammad Zareed Qureshi,
Advocate

For appellant.

Mr. Muhammad Adeel Butt,
Addl. Advocate General

For respondents.

Date of Institution.....25.03.2022
Date of Hearing.....16.05.2022
Date of Decision.....16.05.2022

JUDGEMENT

FAREEHA PAUL MEMBER (E). The service appeal in hand has
been instituted under Section 4 of the Khyber Pakhtunkhwa Service
Tribunal Act, 1974 against the impugned ~~order~~ ^{restoration} dated 26.01.2022

with the request that it

may be set aside and respondent No. 2 may be directed to restore
withdrawal of transfer order dated 26.01.2022, and not to implement
restoration order.

2. Brief facts, as per memorandum of appeal, are that the
appellant is serving as ~~DEO~~ ^{Assistant District Education Officer} (P&D) in the office of ~~DEO~~ ^{Assistant Returning Officer} (Female)
Abbottabad. He was appointed as ARO by the Provincial Election
Commission for the conduct of local body election in Khyber
Pakhtunkhwa. Election Commission of Pakistan through its notification

*District
Education
office*

*through which order
dated 5-1-2022 has
been restored*

sides. The department was therefore, required to have followed the laid down procedure under Rule-9 of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 instead of Police Rules 1975. The subsequent proceedings against the appellant under ^{WP} Police Rules 1975 which culminated in issuance of the impugned order dated 08.02.2016 of the competent authority as well as appellate order dated 14.02.2019 are ^{Therefore stand as} void ab-initio and to have been issued under the irrelevant law not applicable to the appellant.

07. As a sequel to the above, we are of the considered view that the impugned orders do not stand the scrutiny on the touchstone of legal parameters and are void ab-initio. The appellant is reinstated in service. The period he remained out of service shall be treated as Extra Ordinary Leave without pay. However, the department is at liberty to conduct de-novo enquiry strictly in the mode and manner laid down in the Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011. In case de-novo enquiry is conducted against the appellant, the intervening period shall be decided in the light of findings of the de-novo enquiry. Costs shall follow the event. Consign.

08. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 11th day of May, 2022.*

(SALAH UD DIN)
MEMBER(J)
CAMP COURT SWAT

(MIAN MUHAMMAD)
MEMBER(E)
CAMP COURT SWAT

dated 20.01.2022 imposed ban on posting/transfer orders till the publication of the results of the election. On 02.12.2021 through a notification of Elementary & Secondary Education ^{Department} Khyber Pakhtunkhwa services of the respondent No. 4 were placed at the disposal of District Education Officer (Male) Abbottabad. On 22.12.2021 the Directorate of ^{Elementary and Secondary Education} (Respondent No. 2) issued a notification through which services of Respondent No. 4 ^{were} placed ~~at~~ ⁱⁿ in the office of DEO (Female) Abbottabad as ADEO (P&D) and the appellant who was working at that position was posted as ADEO (Sports) in the office of DEO (Male) Abbottabad ^{as a stop gap arrangement.} On 05.01.2022 ~~the~~ respondent No. 2 withdrew the transfer order dated 22.12.2021. After that on 26.01.2022 respondent No. 2 restored the order dated ⁵ 06.01.2022 to the extent of appellant. Feeling aggrieved the appellant submitted departmental appeal dated 26.01.2022 which was not responded. He, thereafter, ^d file writ petition before hon'ble Peshawar High Court, Abbottabad Bench, which through its judgement ^{dated} 15.3.2022 ^{the petition} was sent to Service Tribunal to be ^{treated} considered as an appeal; hence the service appeal.

3. Respondents were put on notice who submitted their written replies/comments on contents of the appeal.

4. After hearing the arguments of learned counsel for the appellant as well as the learned Additional Advocate General we have ^o come to the conclusion that the appellant had challenge ^{d his} the transfer ^{of} ~~of~~ ^{in the light of a} ~~post, on~~ the notification of Election Commission of Pakistan wherein ban was imposed on posting/transfer till such time that the results of the election ^{were} ~~was~~ announced. Now entire process has been over and

limitation would not run against the void order. To strengthen his arguments he relied on 2015 PLC (CS) 151 and 2015 SCMR 795. The penalty of has been imposed with retrospective effect which rendered the impugned order void ^{abinitio} having no legal effect. He therefore, requested that the service appeal may be allowed by reinstating the appellant in service with all back benefits

05. Learned Additional Advocate General on the other hand raised preliminary objection on maintainability of the instant service appeal on ^{the} ground of limitation while placing reliance on 2010 SCMR 1982, 2011 SCMR 676 and 2015 SCMR 165. He vehemently objected that no plausible justification has been given for delay by the appellant and no application for condonation to that effect submitted with the service appeal. Moreover, penalty has been imposed after completion of all codal formalities because charge sheet and show cause notice were duly received by brothers of the appellant and who also recorded statements ^{to that effect and also} confirming that the appellant was engaged as employee in Kingdom of Saudi Arabia for 2300/- Saudi Rials per month. The service appeal being devoid of merit may be dismissed with cost, he concluded.

06. Perusal of record reveals that the appellant was serving in respondent-department as Beshti since 17.07.2007. He was non-uniformed personnel of the police service. The Government of Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 were therefore applicable to him for all intends and purposes. It is not disputed that the appellant during his initial 25 days leave, proceeded abroad without approval and sanction of Ex-Pakistan Leave by the Competent Authority rather it is an admitted fact on both the

ban on posting/transfer/^{is} no more in place, ^{the} government is at liberty to post the appellant at any place which it deems fit. The appeal in hand/^{has} thus become infructuous and ^{is} dismissed. Parties are left to bear their own costs. Consign.

5. *Pronounced in open court in Abbottabad and given under our hands and seal of the Tribunal this 16th day of May, 2022.*

(ROZIAN REHMAN)
Member (J)

(FAREEHA PAUL)
Member (E)

authority. However, he did not rejoin his duty on expiry of the said leave. On the report of SHO Police Station Gandigar, he was proceeded against under the Khyber Pakhtunkhwa Police Rules, 1975. The departmental proceedings culminated in his dismissal from service vide order dated 08.02.2016. His departmental appeal dated nil was filed on the ground of being badly time barred vide appellate order dated 14.02.2019 where-after the instant service appeal was instituted in the Service Tribunal on 28.03.2019.

03. Notices were issued to the parties who submitted written replies/comments on contents of the appeal. We have heard learned counsel for the appellant as well as Additional Advocate General and perused the case file with connected documents thoroughly.

04. Learned counsel for the appellant contended that ^{two} ~~the~~ ~~appellant's~~ ^{of the appellant} sons ~~Bilal Shah and Manzoor~~ were sick and admitted in hospital as indoor patients at different period of time. He was therefore not only passing through ^{persistent agony} mental tension but also in need of financial resources to look after them properly. He therefore, proceeded abroad for bread earning in Kingdom of Saudi Arabia. The departmental proceedings were initiated and conducted on back of the appellant. Neither charge sheet/statement of allegations nor show cause notice communicated to him. He was not provided ~~an~~ opportunity of personal hearing either by the enquiry officer or by the competent authority. The prescribed procedure under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 were not followed ^{issuance of} and the entire exercise including ^{therefore} the impugned orders are void ab-initio. On the question of limitation that the departmental appeal was submitted after almost three years, he contended that the

④ The appellant was proceeded against the KP Police Rules 1975

1

BEFORE THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH

Service Appeal No. 422/2022

Writ Petition No. 139 -A/2022

Shahzad Yousaf Abbasi son of Muhammad Yousaf, resident of Village Dalola Tehsil & District Abbottabad.

....PETITIONER

VERSUS

1. Govt. of KPK through Secretary (E&SE) KPK Peshawar.
2. Director Elementary and Secondary Education KPK Peshawar.
3. Assistant Director (Establishment) Directorate (E&SE) KPK Peshawar.
4. Mr Waseem Fazal S/o Fazal ur Rehman Ex District Sports Officer Abbottabad.

....RESPONDENTS

WRIT PETITION UNDER ARTICLE 199 OF
CONSTITUTION OF ISLAMIC REPUBLIC OF
PAKISTAN FOR DECLARATION TO THE
EFFECT THAT PETITIONER BEING SERVING
AT THE POST OF ADEO (P&D) AT OFFICE OF
THE DEO (F) ABBOTTABAD AND NOTIFIED
AS A.R.O FOR THE LOCAL GOVT ELECTION
IN KP IS ILLEGALLY AND MALAFIDELLY
TRANSFERRED TO THE POST OF ADEO.

No. 644
01-02-22

FILED FOR
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
20/02/22

(SPORTS) AT O/O THE DEO (M) ABBOTTABAD THROUGH RESTORATION OF WITHDRAWAL ORDER VIDE ENDST: NO. 9458-63 DATED 26.01.2022 THROUGH WHICH THE NOTIFICATION NO. 2436-39 DATED 05.01.2022 HAS BEEN RESTORED AND RESULTANTLY TRANSFER ORDER ENDST: NO.7620-22 DATED 22.12.2022 BECOME OPERATIVE. TRANSFER ORDER/ RESTOREATION ORDER OF PETITIONER ENDST: NO. 9458-63 DATED 26.01.2022 ALONGWITH ITS CONSEQUENCES IS ILLEGAL DISCRIMINATORY, AGAINST THE LAW AND POLICY OF THE GOVERNMENT AND LIABLE TO BE CANCELLED SET ASIDE.

PRAYER: ON ACCEPTANCE OF INSTANT WRIT PETITION IMPUGNED ORDER ENDST: NO9458-63 DATED 26.01.2022 MAY BE SET ASIDE AND RESPONDENT NO.2 MAY GRACIOUSLY BE DIRECTED TO RESTORE WITHDRAWAL OF TRANSFER ORDER ENDST: ENDST: NO. 9458-63 DATED

FILED FOR
 ADDITIONAL REGISTRAR
 PESHAWAR HIGH COURT
 ABBOTTABAD BENCH
 20/01/22

26.01.2022 AND ISSUE DIRECTION TO NOT IMPLEMENT THE RESTORATION ORDER NO.9458-63 ANY OTHER RELIEF WHICH THIS HONOURABLE COURT DEEMS APPROPRIATE IN THE CIRCUMSTANCES OF THE CASE MAY ALSO BE GRANTED TO THE PETITION.

Respectfully Sheweth:-

The facts forming the background of the instant writ petition are arrayed as under:-

1. That the petitioner is serving as ADEO (P&D) DEO (Female) Abbottabad and petitioner was appointed as ARO by the provincial Election Commission for the conduct of local bodies Election in KP. Copy of notification is annexed as Annexure "A".
2. That Election Commission of Pakistan issued notification dated 20.01.2022 wherein ban has been imposed on posting transfer orders till the publication of result. Copy of notification is attached as Annexure "A-1".

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ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
20/01/22

3. That on 02.12.2021 respondent No.4 was placed at the disposal of District Education officer (Male) Abbottabad. Copy of Notification is attached as Annexure "B".
4. That on 22.12.2021 respondent No.2 issued transfer order of petitioner vide Endorsement No.7620-22 dated 22.12.2021. Copy of order dated 22/12/2021 is attached as Annexure "C".
5. That on 05.01.2022 respondent No.2 cancelled/withdrawn the transfer order of petitioner vide Endst: No. 2436-39. Copy of order dated 05/12/2022 is attached as Annexure "D".
6. That on 26.01.2022 vide Endst: No.9458-63 dated 26.01.2022 respondents restored the cancellation/withdrawal order. Copy of order dated 26/01/2022 is attached as Annexure "E".

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ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
[Signature]

7. That petition has illegally transferred and again the cancellation/withdrawal of transfer order was illegally and malafidely restored by the respondents vide notification No.9458-63 F.No103 dated 26/01/2022. Hence, the petitioners filed departmental appeal against the impugned order dated 26.01.2022. Copy of departmental appeal is annexed as Annexure "F". But no reply has been received from concern quarter. Hence the instant writ petition is filed inter alia on the following grounds.

GROUND:-

- a. That the impugned orders dated 22/12/2021 and 05/01/2022 of the petitioner are illegal, based on malafidely and without authority, hence, are liable to be set aside.
- b. That respondents illegally and malafidely issued the order inspite of clear directives from the Election Commission of Pakistan.

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ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
20/07/22

- c. That the order dated 26/01/2022 is without authority and is the result of collusion and malafidely of respondents.
- d. That no justification is shown in order dated 26/01/2022.
- e. That, if the said restoration order implemented the issued ECP KPK scheduled may be disturbed due to posting/transfer of appointed officers against AROs Post. Copy of Notification of Appointment of Returning Officer is annexed as Annexure "G"
- f. That there is no other alternate adequate remedy available to the petitioner except the titled petition.
- g. That notice/ intimation of filing the instant writ petition against the respondents have duly been served upon the respondents through registered post. Copies of notice & receipts are attached as Annexure "H".
- h. That court fee stamp worth Rs. 500/- is attached with the petition.

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PESHAWAR HIGH COURT
ABBOTTABAD BENCH
20/01/22

- i. That any other ground will be raised at the time of arguments with the permission of this Honourable.

It is, therefore, very humbly prayed that on acceptance of the instant writ petition impugned order Endst: No 9458-63 dated 26.01.2022 may be set aside and respondent No.2 may graciously be directed to restore withdrawal of transfer order Endst: No. 9458-63 dated 26.01.2022. Any other relief which this Honourable court deems appropriate in the circumstances of the case may also be granted to the petition.

INTERIM RELIEF;

Meanwhile the operation of impugned order Endst: No 9458-63 dated 26.01.2022 may graciously be suspended and respondents be directed to restore withdrawal of transfer order Endst: No. 9458-63 dated 26.01.2022 till final disposal of the titled writ petition.

Dated: 31/01/2022

Through

...PETITIONER

(Muhammad Zareed Qureshi)
Advocate High Court, Abbottabad

VERIFICATION:-

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

...PETITIONER

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
31/01/2022

BEFORE THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH

Writ Petition No. _____ -A/2020

Shahzad Yousaf Abbasi son of Muhammad Yousaf, resident of Village Dalola Tehsil & District Abbottabad.

....PETITIONER

VERSUS

Govt. of KPK through Secretary (E&SE) KPK Peshawar & others.

...RESPONDENTS

WRIT PETITION

AFFIDAVIT

I, *Shahzad Yousaf Abbasi son of Muhammad Yousaf, resident of Dalola Tehsil & District Abbottabad*, do hereby declare on oath that the contents of foregoing writ petition are true and correct to the best of my knowledge and belief and nothing has been suppressed from this Honourable Court.

35202-8667232-9

S.No. 584/584 Pet No. 584 **DEPONENT**
I, Shahzad Yousaf Abbasi son of Muhammad Yousaf
Dalola Tehsil, District Abbottabad
personally know as

FILED FOR
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
31/1/22

[Handwritten signature]
31/1/22

BEFORE THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH

Writ Petition No. 179 -A/2020

Shahzad Yousaf Abbasi son of Muhammad Yousaf, resident of Village Dalola Tehsil & District Abbottabad.

....PETITIONER

VERSUS

Govt. of KPK through Secretary (E&SE) KPK Peshawar & others.

....RESPONDENTS

WRIT PETITION

CERTIFICATE

Certified that no such like writ petition has earlier been filed by the petitioner on the subject.

It is further certified that notice of writ petition alongwith grounds of writ has been dispatched to the respondents.

...PETITIONER

Dated: 31/01/2022

Through

(Muhammad Zareed Qureshi)
Advocate High Court, Abbottabad

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
20/01/22

BEFORE THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH

Writ Petition No. 139 -A/2020

Shahzad Yousaf Abbasi son of Muhammad Yousaf, resident of Village Dalola Tehsil & District Abbottabad.

....PETITIONER

VERSUS

Govt. of KPK through Secretary (E&SE) KPK Peshawar & others.

....RESPONDENTS

WRIT PETITION

LIST OF BOOKS

1. Constitution of Islamic Republic of Pakistan, 1973
- 2.
3. Other relevant case law will be cited at the bar.

...PETITIONER

Dated: 31/01/2022

Through

21/1/22
(Muhammad Zareed Qureshi)
Advocate High Court, Abbottabad

FILED
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
01/02/22

BEFORE THE PESHAWAR HIGH COURT,
ABBOTTABAD BENCH

Writ Petition No. _____ -A/2020

Shahzad Yousaf Abbasi son of Muhammad Yousaf, resident of Village Dalola Tehsil & District Abbottabad.

....PETITIONER

VERSUS

Govt. of KPK through Secretary (E&SE) KPK Peshawar & others.

....RESPONDENTS

WRIT PETITION

ADDRESSES OF THE PARTIES

Respectfully Sheweth;-

Addresses of the parties is as under;-

Shahzad Yousaf Abbasi son of Muhammad Yousaf, resident of Village Dalola Tehsil & District Abbottabad.

....PETITIONER

VERSUS

1. Govt. of KPK through Secretary (E&SE) KPK Peshawar.
2. Director Elementary and Secondary Education KPK Peshawar.
3. Assistant Director (Establishment) Directorate (E&SE) KPK Peshawar.
4. Mr Waseem Fazal S/o Fazal ur Rehman X District Sports Officer Abbottabad.

....RESPONDENTS

...PETITIONER

Dated: 31/01/2022

Through

2149
(Muhammad Zareed Qureshi)
Advocate High Court, Abbottabad

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
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Writ Petitions

W.P 139/2022

دیوانی / نوہداری

نمبر مقدمہ

Shehzad Yousaf V/s Govt etc

نمبر مقدمہ

نوٹس بنام:

Muhammad Zareed Qureshi Atd_ Advocate(s)

Additional Advocate General Atd_ Advocate(s)

ایبٹ آباد ریفرنس ڈا

15 March 2022

رجسٹرڈ 8 بجے کے ساتھ مندرجہ ذیل آڈیو

میں کیا ہوتا ہے کہ آپ کو ہنگامہ فوری

اور اس کے لئے اختیار و قیام میں بصورت دیگر آپ کے خلاف بطور کاروائی عمل میں لائی جائے تو

نوٹس اور قیام کے لئے رجسٹرڈ ہوتی ہے نوٹس ہونا اور

اپنے عدالت کے ذریعہ کیا جائے بصورت دیگر متعلقہ ادارے کے خلاف کاروائی کی جائے گی۔

ایڈیشنل جج جسٹس

10/03/22

ذات بخیر

S.No	District Returning Officer	S.No	Returning Officer	S.No	Assistant Returning Officer	Jurisdiction
1	2	3	4	5	6	7
12	Mr. Aziz Bohadur, Regional Election Commissioner, Hazara Division	173	(Farukh Jadoon) Assistant to Commissioner (Political/Development) Hazara Division, Abbottabad	220	(Malik Hanif) V Principal, Govt Higher Secondary School, Richbhen	109-VC-Dobathar-I 110-VC-Dobathar-II 111-VC-Chamhad 112-VC-Bagh Dara 113-VC-Kassak Kalan 114-VC-Ihana 115-VC-Ran Noora 116-VC-Pawa-I 117-VC-Pawa-II 118-VC-Kakoh-I 119-VC-Richbhen
		174	(Tariqullah Khan) Additional Deputy Commissioner, Finance & Planning, Abbottabad	221	(Naqash Khan) Assistant Sub Divisional Education Officer Circle Abbottabad Office of the SDEO (Male) Abbottabad	1-NC-Malkpura Urban-I 2-NC-Malkpura Urban-II 3-NC-Malkpura Urban-III 4-NC-Central Urban-I 5-NC-Central Urban-II 6-NC-Central Urban-III 7-NC-Khola Keshal 8-NC-Upper Keshal 9-NC-Keshal 10-NC-Nawansher U-Lan 11-NC-Nawansher Dhodhal
		175	(Adil Ayub) Assistant to Commissioner (Revenue & General Administration) Hazara Division, Abbottabad	222	(Muhammad Javed) Head Master, Government High School, Ghorl, Abbottabad	1-VC-Majhan-I 2-VC-Majhan-II 3-VC-Rigla-I 4-VC-Rigla-II 5-VC-Rigla-III 6-VC-Langra-I 7-VC-Kardaki 8-VC-Dobara 9-VC-Darjan Jumbat 10-VC-Mani 11-VC-Gora 12-VC-Sutera 13-VC-Bakhan 14-VC-Kangar Holer 15-VC-Drya Manai 16-VC-Nouri Tani 17-VC-Sakoh 18-VC-Bandi Attai Khan 19-VC-Phujan Mal 20-VC-Bareen 21-VC-Baloch 22-VC-Chargha 23-VC-Chamra 24-VC-Havelan (R) 25-VC-Malken 26-VC-Ghni Pindaran 27-VC-Khila 28-VC-Ghori Bagran 29-VC-Razya-I 30-VC-Razya-II 31-VC-Langra-I 32-VC-Langra-II 33-VC-Kozal-I 34-VC-Kozal-II
		176	(Sajjad Haidar) Tehsil Municipal Administrator, Havelian	223	(Shahzad Abbasi), Assistant District Education Officer, P & D Office of the DEC (Female) Abbottabad	1-NC-Havelan Urban-I 2-NC-Havelan Urban-II 3-NC-Havelan Urban-III
		177	(Ijaz Raheem) Regional Municipal Officer Abbottabad	224	(Muhammad Sharwar) ADEO, Sports, o/o DEO (Male), Abbottabad	1-NC-Havelan Urban-I 2-NC-Havelan Urban-II 3-NC-Havelan Urban-III
		178	(Tauseef Mushlaq) Senior Assistant Director (LG&RDD) Abbottabad	225	(Zubair Ali) ASDEO, Circle Pind Kargoo Khan o/o SDEO (Male), Lower Tanawal	

Better copy of Annex 'A'

9:38 PM

31.01.2019

21

Assistant Sub-Divisional Education Officer Circle Abbottabad Office of the SDEO (Male) Abbottabad

6-NC-Central Urban-III

7-NC-Khola Kehal

8-NC-Upper Kehal

9-NC-Kehal

10-NC-Newansher Urban

11-NC-Newansher Dhodial

12

(Muhammad Javed)
Head Master, Government High School, Ghori, Abbottabad

1-VC-Majuhan-I

2-VC-Majuhan-II

3-VC-Riala-I

4-VC-Riala-II

5-VC-Riala-III

6-VC-Langrial

7-VC-Karnaki

8-VC-Dabran

9-VC-Danna Noorai

10-VC-Nara

11-VC-Gora

12-VC-Salora

13-VC-Dakhan

14-VC-Kangar Hoder

15-VC-Dewal Manal

16-VC-Naghi Tadi

17-VC-Sajkot

18-VC-Bandi Attar Khan

19-VC-Phulan Wali

20-VC-Barseen

21-VC-Balohi

22-VC-Jhangra

23-VC-Chamba

24-VC-Havelian (R)

25-VC-Mallah

26-VC-Ghari Phulgran

27-VC-Kiala

28-VC-Ghora Bazgran

29-VC-Rajoya-I

30-VC-Rajoya-II

31-VC-Langra-I

32-VC-Langra-II

33-VC-Kokari

3

(Shalizad Abbasi)
Assistant District Education Officer (P & D) Office of the DEO (Female) Abbottabad

(Muhammad Shamraiz)
A/DEO, Sports, o/o DEO (Male), Abbottabad

(Zubair Ali)

ELECTION COMMISSION OF PAKISTANNOTIFICATIONIslamabad, the 20th January, 2022

Subject:- SCHEDULE FOR CONDUCT OF LOCAL GOVERNMENT ELECTION (SECOND PHASE) IN KHYBER PAKHTUNKHWA.

No.F.16(1)/2021-LGE-KP:- In exercise of the powers conferred upon it under Articles 140A (2) and 219(d) of the Constitution of the Islamic Republic of Pakistan read with Section 219 of the Elections Act, 2017, sub-section (1) of Section 75 & Section-86 of the Khyber Pakhtunkhwa Local Government Act, 2013, sub-rule (1) of Rule-15 of the Khyber Pakhtunkhwa Local Councils (Conduct of Elections) Rules, 2021 and all other powers enabling it in that behalf; the Election Commission of Pakistan hereby calls upon the voters of Tehsil/City Councils, Village/ Neighbourhood Councils to elect their representatives to the seat of Mayor or Chairman and Members of Village Councils/ Neighborhood Councils of districts Abbottabad, Mansehra, Battagram, Torghar, Kohistan Upper, Kohistan Lower, Kolai Palas Kohistan, Swat, Malakand, Shangla, Lower Dir, Upper Dir, Chitral Upper, Chitral Lower, Kurram, Orakzai, North Waziristan, and South Waziristan of Khyber Pakhtunkhwa Province and in connection therewith appoints the following dates of various activities of election to the aforesaid Councils:-

S#	Activity	Days	Date
1	Public Notice inviting nomination papers to be issued by the Returning Officers on	1 Day	04.02.2022
2	Dates for filing of nomination papers with the Returning Officers by the candidates	5 Days	07.02.2022 to 11.02.2022
3	Publication of names of the nominated candidates on	1 Day	12.02.2022
4	Last date for Scrutiny of nomination papers by the Returning Officer	3 Days	14.02.2022 to 16.02.2022
5	Last date for filing of appeals against decisions of the Returning Officer rejecting / accepting the nomination papers.	3 Days	17.02.2022 to 19.02.2022
6	Last date for deciding of appeals by the Appellate Tribunal	5 Days Excluding Sunday on 20.02.2022	22.02.2022
7	Publication of revised list of candidates	1 Day	23.02.2022
8	Last date for withdrawal of candidature and publication of revised list of candidates	1 Day	25.02.2022
9	Allotment of Election Symbols to contesting candidates and publication of list of contesting candidates	1 Day	28.02.2022
10	Polling day on		27.03.2022
11	Consolidation of Results	5 Days	01.04.2022

2. To ensure that elections to the Local Government are conducted honestly, justly, fairly in accordance with law and to ensure that the corrupt practices are guarded against, the Election Commission of Pakistan directs that:-

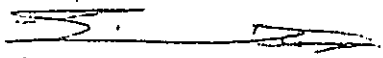
- All Executive Authorities in the Federation and in the Provinces shall neither announce any development project nor use State Resources in Local Government Elections calculated to influence the elections in favor of a particular candidate;

- ii. If any person in Government Service misuses his official position in any manner in order to influence results of the elections, he shall be liable to be proceeded against under the Law;
- iii. Districts in respect of which election schedule of local government elections has been issued, no transfers / postings of the Government Officers and Officials including Autonomous Bodies/ Authorities shall be made without prior approval of the Commission till the publication of election results;
- iv. After the issuance of Election Schedule, the President, Prime Minister, Chief Minister, Governor, Speaker and Deputy Speaker of any assembly, Chairman and Deputy Chairman, of Senate, Federal and Provincial Ministers, Advisors to the Prime Minister or Chief Minister or any other holder of public office shall not visit the area of any local council to announce any development scheme or to canvass or campaign for any candidate or any political party. In case if someone is resident of the district where election are being held he may visit the district however shall not take part in any kind of political activity.
- v. District in respect of which election schedule has been issued, no leave of the Government Officers and Officials including Autonomous Bodies/ Authorities will be granted after the issuance of Election Schedule of the Local Government Elections without prior approval of the Commission till the publication of election results. In case leave has already been sanctioned, the officer will not relinquish his charge without approval of the Hon'ble Commission;
- vi. Any holder of public office, who is found to have violated any provision of Election Laws or the instructions issued by the Election Commission, shall be proceeded against as mandated in law;

Note:-

- i. The offices of the Election Commission as well as the offices of District Returning Officer and Returning Officer shall remain open on all public holidays if any activity provided in the schedule falls on that day.
- ii. All electoral activities mentioned in the aforesaid schedule shall be undertaken during office hours and the said timing will also be followed on public holidays fixed for any electoral activity of the schedule.
- iii. Polling Hours will be observed from 08:00 AM to 05:00 PM.
- iv. Appellate Tribunals may start proceedings of hearing/deciding of appeals simultaneously from 17.02.2022 to 22.02.2022 (Excluding Sunday on 20.02.2022)

By the order of the Election Commission of Pakistan


 (NAVEED-UR-REHMAN)
 Deputy Director (LGE-KP)

29/01/22

To

The Manager,
 Printing Corporation of Pakistan Press,
Islamabad.

[For publication in the Gazette of Pakistan,
 Extraordinary (Part-III) of today's date]



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone No. 091-9223587

Dated Peshawar the, 02.12.2021

NOTIFICATION

No. SO(PE)-2/PT/Repatriation of deputationists/2021. The Competent Authority has been pleased to repatriate the following employees of E&SE Department who are currently posted on deputation basis in the departments as mentioned against their names and to place their services at the disposal of Concerned DEOs for further posting: -

S.No	Name & Designation of the deputationists with BPS	Name of the Departments, where posted	Placed at the disposal of
1.	Zakirullah SPET (BPS-16) GHSS Butyal Shangla.	Sports, Culture, Tourism, Archeology, Museum & Youth Affairs Department	District Education Officer (M) Shangla.
2.	Asif Nawaz SCT (BPS-16) GMS Sabir Abad Tank.	Sports, Culture, Tourism, Archeology, Museum & Youth Affairs Department	District Education Officer (M) Tank.
3.	Siraj-ud-Din SPET (BPS-16) GGHSS Khanpur Dir Lower.	Sports, Culture, Tourism, Archeology, Museum & Youth Affairs Department	District Education Officer (M) Dir Lower.
4.	Bahadar Said SCT (16) GHSS Zinrat Talash Dir Lower.	Sports, Culture, Tourism, Archeology, Museum & Youth Affairs Department	District Education Officer (M) Dir Lower.
5.	Mukhtiar Hussain DM BS-15 GMS Belanzai Dir Upper.	Sports, Culture, Tourism, Archeology, Museum & Youth Affairs Department	District Education Officer (M) Dir Upper.
6.	Khalid Zaman SPST (BS-14) GPS Nawab Khan District Mardan.	Sports, Culture, Tourism, Archeology, Museum & Youth Affairs Department	District Education Officer (M) Mardan.
7.	Muhammad Naveed SPET (BS-16) GHSS No.3 D.I Khan.	Sports, Culture, Tourism, Archeology, Museum & Youth Affairs Department	District Education Officer (M) D.I Khan.
8.	Bakht Shah Zeb SCT (BS-16) GHSS Sadda District Dir Lower.	Sports, Culture, Tourism, Archeology, Museum &	District Education Officer (M) Dir
9.	Waseem Afzal ADEO (MC) BS-16 Office of the DEO (M) Abbottabad.	Sports, Culture, Tourism, Archeology, Museum & Youth Affairs Department	District Education Officer (M) Abbottabad.
10.	GHSS Akhantalab Bara District Khyber.	Authority, Interior Govt. of Pakistan, Islamabad.	Officer (M) Khyber.
11.	Abdul Rahmat Principal GHSS Broze Chitral Lower.	Sports, Culture, Tourism, Archeology, Museum & Youth Affairs Department	District Education Officer (M) Chitral Lower.
12.	Shafiqat Ullah Khan SPET BS-16 GHSS Bannu.	Sports, Culture, Tourism, Archeology, Museum & Youth Affairs Department	District Education Officer (M) Bannu.
13.	Mr. Sardar Ali PET (BS-16) GMS Tanai South Waziristan.	Sports, Culture, Tourism, Archeology, Museum & Youth Affairs Department	District Education Officer (M) South Waziristan.
14.	Mr. Zahid Khan, SPET (BPS-16), GHS Pashora Battagram.	Sports, Culture, Tourism, Archeology, Museum & Youth Affairs Department	District Education Officer (M) Battagram.

17

Annex 'C'



DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION KHYBER PAKHTUNKHWA PESHAWAR

NOTIFICATION

The Competent Authority is pleased to order transfer/posting of the following officers in their own pay scale, with immediate effect in the interest of public.

S#	Name & Designation	From	To (posted as)	Remarks
1	Mr. Waseem Fazal ADEO(M.C)	Awaiting for posting	ADEO (P&D) at O/O the DEO (F) Abbottabad.	VUI
2	Mr. Shehzad ADEO(T.C)	ADEO (P&D) at O/O the DEO (F) Abbottabad.	ADEO (Sports) at O/O the DEO (M) Abbottabad on stop gap arrangement.	AVP

TERMS & CONDITIONS.

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

DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa

Enst: No. 7620 02 [F.NO.103/SST (M) Transfers-Abbottabad (Dated the Peshawar 02 / 12 / 2021)]

- Copy forwarded to the:
1. District Education Officer (M) Abbottabad.
 2. District Accounts Officer Abbottabad.
 3. Officers Concerned.
 4. Master Copy.

Deputy Director (Estab)
Elementary & Secondary Education
Khyber Pakhtunkhwa

₹



DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.

Phone: 091-9225344

Dated Peshawar the _____/2021
Email: establishment@sl1@gmail.com

NOTIFICATION

The ~~Competent Authority~~ is pleased to withdraw the following Transfer/Posting Order issued by this office bearing endorsement No. ~~620-22~~ dated ~~22-12-2021~~ from the date of issuance, in the best interest of public service.

S#	Name & Designation	From	To (posted as)	Remarks
1	Mr. Wascon Fajal (A/DEO/MC)	Awaiting for posting	A/DEO (P&D) at O/O the DEO (F) Abbottabad.	1=1
2	Mr. Shehzad (A/DEO/TC)	A/DEO (P&D) at O/O the DEO (F) Abbottabad	A/DEO (Sports) at O/O the DEO (M) Abbottabad on stop gap arrangement	1=1

DIRECTOR

Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

~~Estab No. 2436-39~~
~~F.NO 103881 (M) Transfers Abbottabad~~ Dated the Peshawar ~~25~~ 01 2021

Copy forwarded to the:

1. District Education Officer (M/F) Abbottabad.
2. District Accounts Officer Abbottabad.
3. Officers Concerned.
4. Master Copy.

Deputy Director (Estab)
Elementary & Secondary Education
Khyber Pakhtunkhwa



18

Annex E



DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.

Phone: 091-9225344

Email: ddhdm.esed@gmail.com

OFFICE ORDER

Office order issued by this office in r/o Mr. Waseem Fazal (MC) to ADEO (P&D) at O/O the DEO (F) Abbottabad vide Notification No. 2436-39 dated 05-01-2022 is hereby Restored.

DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar.

Endst. No. 9458-63 / E. No. 103/SST (M)/ Transfer

Dated Peshawar the 26/01/2022

Copy of the above is forwarded to the: -

1. District Education Officer Concerned.
2. District Account Officer Concerned.
3. Principal/HM Concerned.
4. Officials concerned.
5. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
6. Master File

Assistant Director (Estab)

Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

20

Amex
بخدمت جناب ڈائریکٹر ایلمنٹری اینڈ سیکنڈری ایجوکیشن خیبر پختونخواہ

بوساطت جناب عالیہ ڈسٹرکٹ ایجوکیشن آفیسر (زنانہ) ایبٹ آباد

عنوان: اپیل منسوخی آرڈر نمبر 103 F.No 63-9458 مورخہ 26 جنوری 2022

جناب عالی

گزارش خدمت ہے کہ سیکرٹری ایلمنٹری اینڈ سیکنڈری کے آفس سے جاری کردہ آرڈر نمبر S0(PE)5-2 IPT 2021

مورخہ 02-12-2021 کے تحت وسیم فضل کو سپورٹس اینڈ کلچر سے Disposal to DEO (male) ایبٹ آباد پر چھوڑا

گیا تاہم آرڈر نمبر 103 F.No 22-7620 مورخہ 22-12-2021 کے تحت خلاف ضابطہ DEO (female) میں ADEO

دیا گیا ہے۔ جناب عالی سائل نے اس آرڈر کی منسوخی کے لیے اپیل کی جس کی روشنی میں آرڈر نمبر 103 F.No 39-2436 مورخہ 05-01-2022

کو جناب نے آرڈر with draw کر دیا تھا۔ اب تعجب ہے کہ پھر سے آرڈر نمبر 103 F.No 63-9458 مورخہ 26-01-2022

کے تحت وسیم فضل کو ADEO خلاف ضابطہ لگا دیا گیا ہے۔

سیکرٹری ایلمنٹری اینڈ سیکنڈری کے آفس آرڈر کے مطابق وسیم فضل DEO (male) ایبٹ آباد کی ڈسپوزل پر تھا اور ہے

جناب عالی دوسری اہم گزارش ہے کہ لیکشن کمیشن آف پاکستان کے نوٹیفیکیشن نمبر F-16(1) 2021-LGE-KP

مورخہ 20-01-2022 کے مطابق سائل بحیثیت ARO اپنے فرائض منصبی ادا کر رہا ہے۔ اس نوٹیفیکیشن کے

صفحہ نمبر 2 شق نمبر 3 میں واضح طور پر درج ہے کہ لیکشن 2022 کے آمدہ رزلٹ یکم اپریل 2022 تک ٹرانسفر پوسٹنگ

پر پابندی عائد ہے۔ مزید برآں شق نمبر 2 اور 6 بھی ٹرانسفر اور پوسٹنگ نہ کرنے کی واضح ہدایات دیتی ہیں۔ بادی النظر

میں یہ آرڈر خلاف قانون و ضابطہ ہے۔ اس کی منسوخی کے احکامات صادر فرما کر مشکور فرمائیں۔

العارض

26/1/22
شہزاد یوسف عباسی
ADEO
O/O DEO (female)
ABBOTTABAD

مورخہ 26 جنوری 2022

کاپی برائے
P/S ڈسٹرکٹ ایجوکیشن خیبر پختونخواہ
ڈسٹرکٹ ایجوکیشن کمشنر ایبٹ آباد
ڈپٹی کمشنر ایبٹ آباد

D-117 26/01/22

21

Better copy of

Annex "G"

9:38 PM

11/11/11

21	Assistant Sub-Divisional Education Officer Circle Abbottabad Office of the SDEO (Male) Abbottabad	6-NC-Central Urban-III 7-NC-Khola Kehal 8-NC-Upper Kehal 9-NC-Kehal 10-NC-Nawansher Urban 11-NC-Nawansher Dhodial
12	(Muhammad Javed) Head Master, Government High School, Ghori, Abbottabad	1-VC-Majuhan-I 2-VC-Majuhan-II 3-VC-Riala-I 4-VC-Riala-II 5-VC-Riala-III 6-VC-Langrial 7-VC-Karhaki 8-VC-Dabran 9-VC-Danna Nooral 10-VC-Nara 11-VC-Gora 12-VC-Satora 13-VC-Dakhan 14-VC-Kangar Holer 15-VC-Dewal Manal 16-VC-Nagri Tadi 17-VC-Sajkot 18-VC-Bandi Attar Khan 19-VC-Phulan Wali 20-VC-Barseen 21-VC-Balohi 22-VC-Jhangra 23-VC-Chamba 24-VC-Havelian (R) 25-VC-Mallah 26-VC-Ghari Phulgran 27-VC-Kiala 28-VC-Ghora Bazgran 29-VC-Rajoya-I 30-VC-Rajoya-II 31-VC-Langra-I 32-VC-Langra-II 33-VC-Kokat-I
3	(Shahzad Abbasi) Assistant District Education Officer (P & D) Office of the DEO (Female) Abbottabad	
	(Muhammad Shamraz) AEDO, Sports, o/o DEO (Male), Abbottabad	
	(Zubair Ali)	

OFFICE OF MUHAMMAD ZAREED QURESHI

Advocate High Court, office at Abbottabad

A 2002-04 H

22



To

1. Govt. of KPK through Secretary (B&SE) KPK Peshawar.
2. Director Elementary and Secondary Education KPK Peshawar.
3. Assistant Director (Establishment) Directorate (B&SE) KPK Peshawar.
4. Mr. Wassem Fazal No. Fazal ur Rehman Ex District Sports Officer Abbottabad.

Subject: NOTICE OF FILING OF WRIT PETITION.

On the advice of my client, Shahnaz Yousof Abbasi son of Muhammad Yousof, resident of Village Dalola Tehsil & District Abbottabad, a writ petition is being filed against you before the Honourable Peshawar High Court, Abbottabad Bench. A notice intimation of the same is being sent to you for information, necessary action under the law; Copy of writ petition is attached herewith.

Dated: 21/01/2022

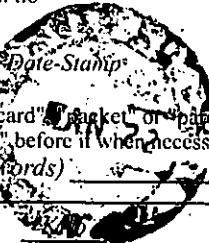
(Muhammad Zareed Qureshi)
Advocate High Court, Abbottabad

No. RGL57531435

Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Rs. 50 Ps.

Received a registered addressed to Govt



Initials of Receiving Officer WJ *Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for Rs. (in figures) _____ (in words) _____

If insured.

Insurance fee Rs. _____ Ps. _____ (in words) } Weight } Grams

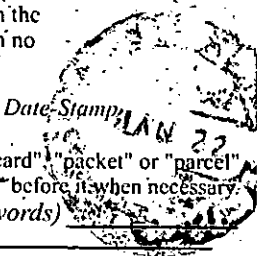
Name and address of sender Govt 3/11/22

No. 414 RGL57531436

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Rs. 50 Ps.

Received a registered addressed to M. G. Wasekar



Initials of Receiving Officer D. J. J. *Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for Rs. (in figures) _____ (in words) _____

If insured.

Insurance fee Rs. _____ Ps. _____ (in words) } Weight } Kilo Grams

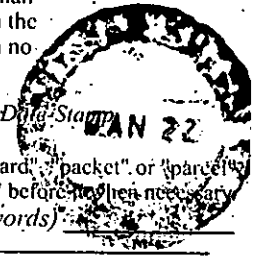
Name and address of sender ATD 3/11/22

No. 415 RGL57531437

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Rs. 50 Ps.

Received a registered addressed to Assistant



Initials of Receiving Officer D. J. J. *Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for Rs. (in figures) _____ (in words) _____

If insured.

Insurance fee Rs. _____ Ps. _____ (in words) } Weight } Kilo Grams

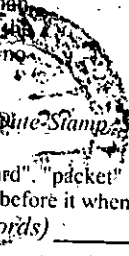
Name and address of sender GA 3/11/22

No. RGL57531434

Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Rs. 50 Ps.

Received a registered addressed to Proctor



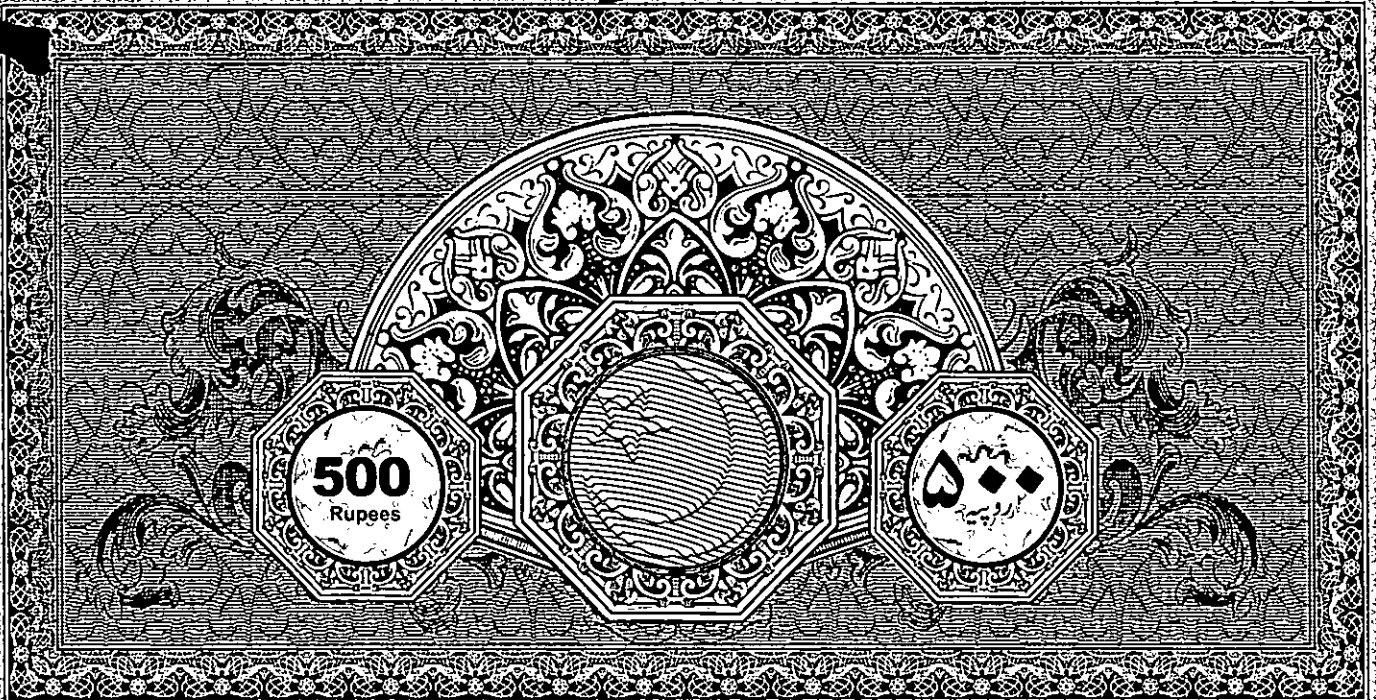
Initials of Receiving Officer WJ *Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for Rs. (in figures) _____ (in words) _____

If insured.

Insurance fee Rs. _____ Ps. _____ (in words) } Weight } Kilo Grams

Name and address of sender Proctor 3/11/22



PAKISTAN COURT FEE

Court Fee.

بشیر یوسف

بنام

گورنمنٹ KPK دہلیزہ

CANCELLED

CANCELLED

CANCELLED

ABBOTTABAD
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
20/05/22

BEFORE THE PESHAWAR HIGH COURT ABBOTTABAD BENCH

W.P NO. 139-A/2022

Shahzad Yousaf Abbasi.....PETITIONER

VERSUS

Govt of KPK & OthersRESPONDENTS

WRIT PETITION

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS NO. 04

INDEX

S#	Description	Page No's	Annexure
1	Comments along with Affidavit	01 to 05	
2	Copy of judgment dated 01-02-2022 in wp No. 116-A/2022	06 to 19	"A"
3	Copy Of Arrival Report	20	"B"
4	Copy of Charge Relinquish Certificate	21	"C"
5	Copy of the judgment dated 22-10-2019 in wp No. 1775-P/2019	22 to 25	"D"

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
12/02/2022

Comments Received
by Counsel for Petitioner
12/02/2022

12 FEB 2022

Copy Received
12/02/2022
Additional Advocate General
Khyber Pakhtunkhwa
Abbottabad

ATTACHED
12 FEB 2022
M. J. INQUIRY

BEFORE THE PESHAWAR HIGH COURT ABBOTTABAD BENCH

W.P NO. 139-A/2022

Shahzad Yousaf Abbasi.....PETITIONER

VERSUS

Govt. of KPK & OthersRESPONDENTS

WRIT PETITION

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS NO. 02 & 03

Respectfully Sheweth:

Para wise comments on behalf of respondent are submitted as under:

PRELIMINARY OBJECTIONS:-

1. That the petitioner has no cause of action to file the instant writ petition.
2. That the petitioner has no locus standi to file the instant writ petition.
3. That this Honourable Court has got no jurisdiction to entertain the instant writ petition.
4. That according to PLC 2019 (CS-488) under Article; 212 of Constitution "Matters with regard to term & conditions of service would come within the Domain of Service Tribunal".
5. That the August Supreme Court of Pakistan in case of "Ali Azhar Khan Baloch VS Province of Sindh & Others" (2015 SCMR 456) has not appreciated entertaining Writ Petition in the matter pertaining to the terms & condition of Service.
6. That the fact in issue pertains to the Terms & Conditions of service, therefore, the jurisdiction of this Honourable Court is specifically ousted under the expressed provision of Article 212 of the Constitution.
7. That the Notification No. F.16(1)/2021-LGE/KP dated 20-01-2022 regarding schedule for conduct of Local Government Election second phase KP has been set aside by this Honorable Court vide judgment dated 01-02-2022 in Writ Petition No. 116-A/2022 hence, the instant Writ Petition has become infructuous.
8. That the petitioner did not come to this Honorable Court with clean hands.

No- 806
12-2-22

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
12/2/22

9. That the petitioner concealed and distorted the material facts from this Honorable Court.
10. That the present writ petition has been filed just to pressurize the respondents.
11. That as per Section 10 of Civil Servant Act 1973, every Government Servant is bound to serve anywhere within the District in the best interest of public service without raising any objection in this regard.
12. That petitioner belongs to Teaching Cadre while respondent No. 4 belongs to Management Cadre. As per judgment of Honourable Peshawar High Court Peshawar passed in Writ Petition No. 1775-P/2019 dated 22-10-2019 it was directed to department to strictly observed the Law and Policy by not adjusting the Teaching Cadre staff in Management Cadre.
13. That the instant writ petition is not maintainable in its present form.
14. That order dated 26-01-2022 issued by the competent authority as well as in best interest of the public service hence, same is liable to be maintained.
15. That all the proceedings have been done by the competent authority as per Rule & Law hence, the writ petition is liable to be dismissed without any further proceedings.
16. That as per reported judgment 2011 SCMR 1111, petitioner could not file service appeal before the Honorable Tribunal before expiry of period of 90 days from the date of departmental appeal. Hence, instant writ petition appeal is against the service laws.
17. That petitioner belongs to the Teaching Cadre and he was adjusted against the post of Management Cadre on stop gap arrangement. Petitioner was adjusted against the vacant post of ADEO (Sports) of the office of District Education Officer (Male) Abbottabad.

Factual Objections:-

1. In reply to Para No. 1, of the instant writ petition it is submitted petitioner belongs to Teaching Cadre and he was posted against the post of Management Cadre on purely stop gap arrangement.

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2. In reply to Para No. 2, of the instant writ petition it is submitted that the Notification of Election Commission No. F.16(1)/2021-LGE/KP dated 20-01-2022 regarding schedule for conduct of Local Government Election second phase KP has been set aside by this Honorable Court vide judgment dated 01-02-2022 in Writ Petition No. 116-A/2022 hence, the instant Writ Petition has become infructuous. (Attested Copy of Judgment of this Honorable Court dated 01-02-2022 is annexed herewith as Annexure "A")
3. That Para No. 3, of the instant writ petition relates to record hence, need no comment.
4. That Para No. 4, of the instant writ petition is correct. In pursuance of transfer order dated 22-12-2021 respondent No. 4 submitted his arrival report before District Education Officer (Female) Abbottabad on 24-12-2021 vide diary No. 7699 and relinquished the charge of District Sports Officer Abbottabad on 27-12-2021. (Copy of Arrival Report and Charge Relinquish Certificate are annexed herewith as Annexure "B" and "C" respectively)
5. That Para No. 5, of the instant writ petition relates to record.
6. That to No. 6, of the instant writ petition is correct.
7. That Para No. 7, of the instant writ petition as composed is incorrect, hence denied. As petitioner belongs to Teaching Cadre while respondent No. 4 belongs to Management Cadre. As per judgment of Honourable Peshawar High Court Peshawar passed in Writ Petition No. 1775-P/2019 dated 22-10-2019 it was directed to department to strictly observed the Law and Policy by not adjusting the Teaching Cadre staff in Management Cadre. Furthermore, petitioner badly failed to file departmental appeal before the appellate authority i.e Secretary E&SE Khyber Pakhtunkhwa Peshawar. (Copy of the judgment dated 22-10-2019 is annexed herewith as Annexure "D")

GROUNDS:-


- a. That ground a, as composed is incorrect hence, denied.
- b. That ground b, as composed is incorrect hence, denied. Comprehensive reply has already given in Para No. 2 of the factual objections.

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 ABBOTTABAD BENCH
 17/12/21


- c. That ground c, as composed is incorrect hence, denied.
- d. That the ground d, as composed is incorrect hence, denied.
- e. That the ground e, as composed is incorrect hence, denied as the Notification issued by ECP dated 20-01-2022 is no more in field as the same has been set aside by this Honorable Court vide judgment dated 01-02-2022.
- f. That the ground f, as composed is incorrect hence, denied.
- g. No comment.
- h. No comment.
- i. No comment.
- j. That the respondents seek permission of this Honorable Court to advance further grounds/ points during the course of arguments.

It is, therefore, very humbly prayed that in the light of forgoing comments the writ petition in hand may graciously be dismissed with cost throughout.

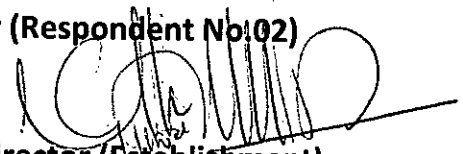
Vetted



Additional Advocate General
Khyber Pakhtunkhwa,
Abbottabad
10/2/22



Director E&SE
Khyber Pakhtunkhwa
Peshawar (Respondent No.02)



Assistant Director (Establishment)
Directorate of E&SE
Khyber Pakhtunkhwa
Peshawar (Respondent No.03)

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BEFORE THE PESHAWAR HIGH COURT, ABBOTTABAD BENCH.

WRIT PETITION NO. 139-A/2022.
SHAHZAD YOUSAF ABBASI.

Petitioner.

VERSUS

GOVERNMENT OF KHYBER PAKHTUNKHWA & OTHERS.

Respondents.

AFFIDAVIT

I, Baseer Ullah Khan, Assistant Director Directorate of Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar, do hereby solemnly affirm and declare that the contents of foregoing Para wise comments are true and correct to the best of my knowledge and belief and nothing is being suppressed from this Hon,able Court.



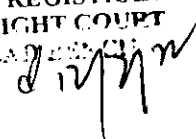
Deponent.

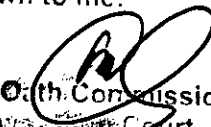
CNIC No. 11101-1949805-1 ✓
Cell No .03339720313

Assistant Director
Elementary & Secondary Education,
Khyber Pakhtunkhwa, Peshawar.

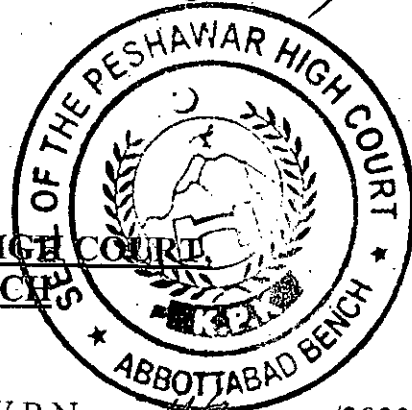
Identified By


Advocate General,
KHYBER PAKHTUNKHWA, PESHAWAR

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No. <u>2806</u>
Certified that the above was verified on solemnly affirmation before me in office, this <u>09</u> day of <u>Feb</u> 20 <u>24</u> by <u>Baseer Ullah</u> s/o <u>A. D.</u> r/o <u>Khyber</u> who was identified by <u>A. G.</u>
Who is personally known to me:
 Oath Commissioner Peshawar High Court, Peshawar

09/02/2024



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

W.P No. 115 /2022

1. Fida Muhammad S/o Muhammad Ayub, resident of Faizabad, Koza Banda, Tehsil and District Battagram.
2. Gul Badshah S/o Muhammad Aslam Khan, resident of Cham Gala, Battagram.

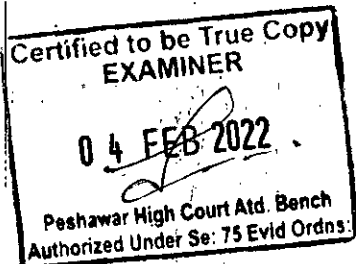
.. PETITIONERS

Vs

1. The Chief Election Commission of Pakistan, Islamabad.
2. The Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
3. The Secretary, Co-ordination Unit, Local Government Election and Rural Development Department, Government of Khyber Pakhtunkhwa Peshawar.

... RESPONDENTS

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, 1973 FOR ISSUANCE OF A DECLARATION TO THE EFFECT THAT NOTIFICATION/SCHEDULE BEARING NO. F.16 (1)/2021-LGE-KP DATED THE 20TH OF JANUARY 2022, ISSUED BY RESPONDENT NO.1 UPON THE TIMELINE BEARING DO NO. PSO/CS/KPK/1-18/2021 DATED 29.12.2021 IS AGAINST THE POSITION ON GROUND, AS MOST OF THE AREAS



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(2)

(7)

OF ALL THE FIVE DISTRICTS OF HAZARA DIVISION ARE SNOW BOUND, HENCE INACCESSIBLE AND VACATED BY THE POPULACE DUE TO HARSH WEATHER AND ABSOLUTE ABSENCE OF HOUSE HOLD UTILITIES, THEREFORE, THE IMPUGNED NOTIFICATION HAS BEEN ISSUED BLINDLY WITHOUT HAVING REGARD TO THE RIGHT OF FRANCHISE OF THE POPULACE OF THESE AREAS AND HENCE, IS ILLEGAL, MALAFIDE, WITHOUT LAWFUL AUTHORITY, ARBITRARY AND AGAINST THE LAW.

PRAYER: - ON ACCEPTANCE OF THIS WRIT PETITION, NOTIFICATION/SCHEDULE BEARING NO. F.16 (1)/2021-LGE-KP DATED THE 20TH OF JANUARY 2022, MAY GRACIOUSLY BE ORDERED TO BE SET ASIDE AND RESPONDENT NO.1 BE DIRECTED TO ANNOUNCE FRESH SCHEDULE TO SUCH SNOW BOUND AREAS IN THE MONTH OF MAY IN ORDER TO ENABLE THE POPULACE TO EXERCISE THEIR CONSTITUTIONAL RIGHT OF CASTING VOTES. ANY OTHER RELIEF DEEMED

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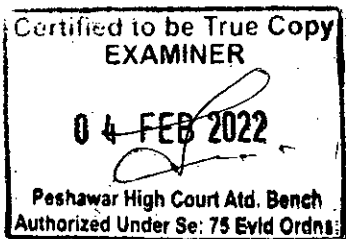
FIT FOR THE PETITIONERS MAY ALSO BE GIVEN
TO THEM.

Respectfully Sheweth: -

Brief facts giving rise to the instant writ petition
are arrayed as under: -

FACTS:

1) That, the petitioners belong to villages Faizabad,
Koza Banda and Cham Gala, of District
Battagram. The area is snow bound situated in a
larger snow bound area. Such areas comprise
thousands of voters.



2) That, due to heavy snow fall about sixty percent
displacement of population takes place as the
peripheral areas other than town become
inaccessible and domestic animals cannot survive
due to inaccessibility and absolute lack of daily
provisions like raashan, electricity etc. The
inhabitants return to their abodes only when the
weather conditions become permissible, i.e. in the
late April or early May every year.

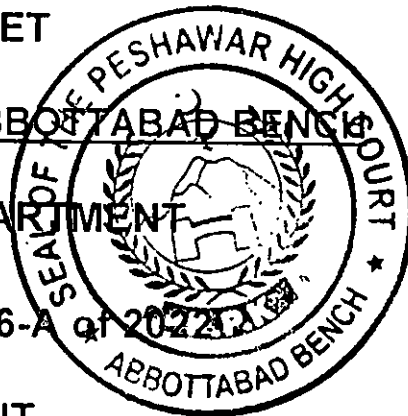
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JUDGMENT SHEET

PESHAWAR HIGH COURT, ABBOTTABAD BENCH

JUDICIAL DEPARTMENT

Writ Petition No.116-A of 2022



JUDGMENT

Date of hearing.....01.02.2022.....

Petitioner(s) ...(Fida Muhammad and another) by Sardar Nasir Aslam Khan, Advocate.....

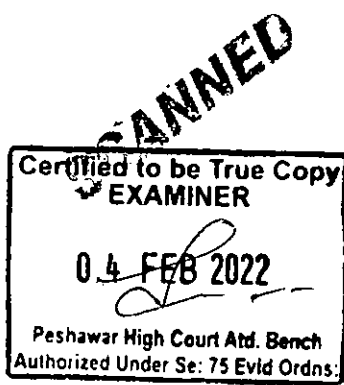
Respondent(s)...(The Chief Election Commissioner, Election Commission of Pakistan, Islamabad and 02 others) by Raja Muhammad Zubair, AAG for respondents No.2 and 3 and Ms. Isma Urooj, Law Officer, for respondent No.1

SHAKEEL AHMAD, J.- Through this single order, we propose to decide instant and connected petitions No.117-A/118-A/119-A and 132-A of 2022, as common questions of law and facts are involved therein.

2. These petitions have been preferred by way of public interest litigation for the enforcement of fundamental rights, political rights, political justice and fundamental duties of the people and electorate citizens of Hazara Division of KPK Province under various statutory provisions.

3. The following prayers are made before us in writ petition No.116-A of-2022:

"On acceptance of this writ petition, notification / schedule bearing



No.F.16(1)/2021-LGE-KP dated the 20th of January 2022, may graciously be ordered to be set aside and respondent No.1 be directed to announce fresh schedule to such snow bound areas in the month of May in order to enable the populace to exercise their constitutional right of casting votes. Any other relief deemed fit for the petitioners may also be given to them."

4. The petitioners claim to be the residents of Faizabad Kuza Banda and Cham Gala of District Battagram. The petitioners in other writ petitions belong to mountainous area of Hazara Division. They claim that they belong to snow bound area and are victim of heavy rain/snow fall. These petitions have been preferred in public interest. According to the petitioners in the province of Khyber Pakhtunkhwa, most of the District where 2nd phase of local Government Elections are to be held are snow bound during the month of January and February, 2022, due to recent spell of snow fall in the mountainous area, it is beyond the bounds of possibility to conduct election in these areas, they pleaded in the petition that due to heavy snow fall, it is impervious for the voters to come out from their houses to cast their votes and it is also not accessible for the candidates to contact their voters, and due to bad weather, it will not be expedient for election staff to perform their duties in a pleasant atmosphere. It was asserted by them that under these circumstances a fair and free Local Government

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Election is not advisable and prayed for rescheduling of elections after Ramadhan. The learned AAG appearing on behalf of the respondents No.2 and 3 and the representative of Election Commission of Pakistan agreed with the contention and plea urged by the petitioners in their petitions.

5. Arguments heard and record perused.

6. It appears from the record that vide Notification dated 20.01.2022, the Election Commission of Pakistan has announced schedule for conduct of local Government Elections (Second Phase) in various Districts of Khyber Pakhtunkhwa i.e. District Abbottabad, Mansehra, Battagram, Torghar, Kohistan Upper & Lower, Kolai Palas Kohistan, Swat, Malakand, Shangla, Lower Dir, Upper Dir, Chitral, Upper and Lower Kurram, Orakzai, North Waziristan and South Waziristan appointing the following dates of various activities.

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Peshawar High Court Attd. Bench
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S.No.	Activity	Days	Date
1	Public Notice inviting nomination papers to be issued by the Returning Officers on	1 Day	04.02.2022
2	Dates for filing of nomination papers with the Returning Officers by the candidates	5 Days	07.02.2022 to 11.02.2022
3	Publication of names of the nominated candidates on	1 Day	12.02.2022
4	Last date for Scrutiny of nomination papers by the Returning Officers.	3 Days	14.02.2022 to 16.02.2022
5	Last date for filing of appeals against decisions of the Returning Officer rejecting / accepting the nomination papers.	3 Days	17.02.2022 to 19.02.2022
6	Last Date for deciding of appeals by the Appellate Tribunal.	5 Days Excluding Sunday on 20.02.2022 2	22.02.2022
7	Publication of revised list of candidates	1 Day	23.02.2022

8	Last date for withdrawal of candidature and publication of revised list of candidates	1 Day	25.02.2022
9	Allotment of Election Symbols to contesting candidates and publication of list of contesting candidates	1 Day	28.02.2022
10	Polling day on		27.03.2022
11	Consolidation of Results	5 Days	01.04.2022

The Chief Secretary Khyber Pakhtunkhwa, Secretary Coordination Unit LGE & RDD, Khyber Pakhtunkhwa and Director General Pakistan Meteorological Department, keeping in view the condition of excess snow fall on the mountains of Khyber Pakhtunkhwa and expected spells of rain with snow fall on the mountains in the month of March, 2022 through various letters requested/proposed to the Election Commission of Pakistan to reschedule the 2nd phase of Local Government Elections, in the province of Khyber Pakhtunkhwa. At this stage, we deem it appropriate to reproduce the said letters, hereinbelow:-

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**"CHIEF SECRETARY
 KHYBER PAKHTUNKHWA
 "D.O No.PSO/CS/KPK/1-18/2021
 Peshawar the 29th Dec, 2021**

**Subject: TIMELINE FOR 2ND PHASE
 OF LOCAL GOVERNMENT
 ELECTIONS IN KHYBER
 PAKHTUNKHWA.**

Dear

Hope my letter finds you in the best of health.

With reference to our discussion last week, I would like to draw your attention towards the difficulties that might be faced during the second phase of Local Government Elections.

In the province of Khyber Pakhtunkhwa, most of the districts

where 2nd Phase of Local Government Elections are to be conducted, will be snow-bound during the months of January and February, making it almost impossible to conduct Elections in these areas. As reported by the Deputy Commissioners of these 18 districts, almost 1/3rd of the VCs/NCs will be inaccessible due to snow and adverse weather conditions (list attached).

It is, therefor, proposed that 2nd Phase of Local Government Elections may be scheduled after Ramadhan in the month of May, 2022. However, if that is not feasible, the polling may be conducted by the end of March, before Ramadhan commences.

Let me reiterate our resolve to facilitate the smooth conduct of the 2nd Phase of Local Government Elections and formulation of effective local governments.

Dr. Shahzad Khan Bangash

Mr. Sikandar Sultan Raja,
Chief Election Commissioner of
Pakistan, Islamabad."

"GOVERNMENT OF
KHYBER PAKHTUNKHWA
LOCAL GOVERNMENT, ELECTIONS &
RURAL DEVELOPMENT DEPARTMENT
"No.CU(LG&RDD)/LGE/5-10/2021
Dated Peshawar the 27th January, 2022

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To
The Secretary,
Election Commission of Pakistan,
Islamabad.

Subject: CONDUCT OF SECOND
PHASE OF LOCAL
GOVERNMENT ELECTIONS
IN KHYBER PAKHTUNKHWA
AND WEATHER FORECAST
DURING LAST WEEK OF
MARCH 2022.

Sir,
I am directed to refer to the subject noted above and to state that given the recent spell of torrential rains/snowfall in the Province, the

Regional Metrological Centre, Peshawar was requested for a weather forecast incoming March with particular reference to conduct of Local Government Elections in 18 districts of 2nd phase, for which the Election Commission of Pakistan (ECP) has already issued the schedule. The Pakistan Metrological Department, Islamabad, communicated its report vide letter No. NWFC-3(5)/2015 dated 22.01.2022 (copy enclosed). A gist of the forecast conveyed is as under:

- a) Weather during the second half of the season (Feb & March) is expected to remain more active than normal and winter season may extend till end of March;
- b) During the month of March 2022 two to three spells of rainfall (with snow fall over the mountains) in the Elections' districts;
- c) The accumulated snowfall will be present over the mountains and in many valleys along the link roads;
- d) The rain during the month of March are accompanied by strong winds causing landslides;
- e) Keeping in view the expected weather conditions in the Elections' districts it may be difficult to manage communication and transportation to conduct.

In addition to the above, the Home & Tribal Affairs Department also sought a report from Headquarters 11 Corps Peshawar regarding current security situation for holding LG elections in the 18 districts of 2nd phase. In response thereof, Headquarter 11 Corps has given the following report (copy enclosed)

- a) Local Government Elections being held in KPK, where in Phase-I elections were conducted in 17 x Districts on 19 December 21. Phase-II elections in remaining 18 x Districts are scheduled on 27 March 2022.
- b) It is for the first time that Local Government elections are held in Newly Merged Districts Phase-II, which will be a concluding phase, is

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- also expected to have huge public interest/participation.
- c) All 18 x Districts in which phase-II elections are planned are in mountainous/semi mountainous regions-winter season.
- d) Almost 40-50 % area will still be snow covered in the month of March.
- e) Condition of communication infrastructure, (mostly link roads/tracks), in mountainous regions deteriorate considerably during winters.
- f) Reaction capability of Law Enforcement Agencies will be limited due to mobility issues.
- g) Placing of comprehensive security mechanism will become a challenge. Hence, electoral staff, polling material and general public will become vulnerable.

I am, therefore, further directed to request that keeping in view the above submissions, the foreseeable logistical issues to transport human resource and election material to reach far-flung areas and provide equal opportunity to people to take part in the electoral process, ECP may re-consider the schedule for the conduct of elections for the 2nd phase of Local Government Elections in the remaining 18 districts of the Province and may kindly postpone the same for at least 06 weeks please.

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SECRETARY
 COORDINATION UNIT
 LGE&RDD KHYBER PAKHTUNKHWA"

7. In response to the letter dated 21.01.2022 written by the Secretary, Co-ordination Unit, the Director General Pakistan Meteorological Department also reported through letter dated 22.01.2022 that excess snow fall has already occurred on the

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mountains of KPK during current month, and the same trend is being predicted in the month of February, 2022 and the accumulated snow will be present over the mountains, even in many valleys alongwith link roads of high mountains like Upper Chitral, Lower Chitral, Abbottabad (Galiyat & Thandiani) Upper Dir, Upper Kohistan during last week of March. It was further reported that accumulated snow would start to melt from mid of April and the expected rain during the month of March are accompanied by strong winds including landslides in vulnerable mountainous areas of above mentioned districts; and it will not only be difficult to manage communication and transportation to conduct Local Government Elections in 2nd Phase, but will also cause great inconvenience to the voters and candidates. It is noted that people normally abandon their residence in the disturbed areas during snow fall/rainy seasons. We observe that the convenience of the voters, candidates and election staff should always be the prime consideration before announcing election schedule in the disturbed areas. In this context, we would like to quote a 'Hadith' from *Sahih Bukhari*, wherein, a renowned companion of the Prophet Muhammad (Peace Be Upon Him) in similar situation allowed people to offer 'Namaz' in their places of abode

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to avoid difficulties to be faced by them due to rain and mud, which reads as under:

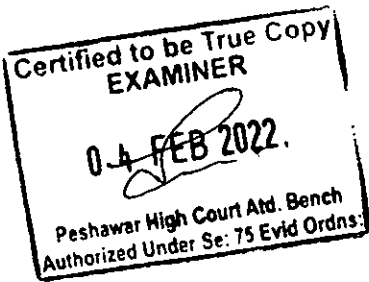
حَدَّثَنَا عَبْدُ اللَّهِ بْنُ عَبْدِ الرَّهْمَنِ، قَالَ: حَدَّثَنَا حَمَّادُ بْنُ زَيْدٍ، قَالَ: حَدَّثَنَا عَبْدُ
الْحَمِيدِ صَاحِبُ الزِّيَادِيِّ، قَالَ: سَمِعْتُ عَبْدَ اللَّهِ بْنَ الْحَارِثِ، قَالَ: "خَطَبَنَا ابْنُ
عَبَّاسٍ فِي يَوْمِ ذِي رَجَعٍ، فَأَمَرَ الْمُؤَذِّنَ لَمَّا بَلَغَ حَيْثُ عَلَى الصَّلَاةِ، قَالَ: قُلِ
الصَّلَاةُ فِي الرَّحَالِ، فَتَنظَرُ بَعْضُهُمْ إِلَى بَعْضٍ فَكَأَنَّهُمْ أَنْكَرُوا، فَقَالَ: كَأَنَّكُمْ
أَنْكَرْتُمْ هَذَا، إِنَّ هَذَا فَعَلَهُ مَنْ هُوَ خَيْرٌ مِنِّي يَعْنِي النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ،
إِنَّهَا عَزْمَةٌ وَإِنِّي كَرِهْتُ أَنْ أُخْرِجَكُمْ"، وَعَنْ حَمَّادٍ، عَنْ عَاصِمٍ، عَنْ عَبْدِ اللَّهِ
بْنِ الْحَارِثِ، عَنْ ابْنِ عَبَّاسٍ نَحْوَهُ، غَيْرَ أَنَّهُ قَالَ: كَرِهْتُ أَنْ أُؤْتَمَّكُمْ، فَتَجِيبُونَ
تَذَوُّسُونَ الطَّيْنَ إِلَى رُكْبَتِكُمْ.

”ہم سے عبد اللہ بن عبد الوہاب بصری نے بیان کیا، کہا کہ ہم سے حماد بن زید نے بیان کیا، کہا کہ ہم سے عبد الحمید
صاحب الزیادی نے بیان کیا کہ کہا میں نے عبد اللہ بن حارث بن نوفل سے سنا، انہوں نے کہا کہ ہمیں ایک دن
ابن عباس رضی اللہ عنہما نے جب کہ بارش کی وجہ سے کچھڑ ہو رہی تھی خطبہ بنایا۔ پھر مؤذن کو حکم دیا اور جب وہ
(حی علی الصلوة) پر پہنچا تو آپ نے فرمایا کہ آج یوں پکار دو (الصلوة فی الرحال) کہ نماز اپنی قیام گاہوں پر پڑھ
لو۔ لوگ ایک دوسرے کو (حیرت کی وجہ سے) دیکھنے لگے۔ جیسے اس گواہوں نے ناجائز سمجھا۔ ابن عباس رضی
اللہ عنہما نے فرمایا کہ ایسا معلوم ہوتا ہے کہ تم نے شاید اس کو برا جانا ہے۔ ایسا تو مجھ سے بہتر ذات یعنی رسول
اللہ صلی اللہ علیہ وسلم نے بھی کیا تھا۔ بیشک جمعہ واجب ہے مگر میں نے یہ پسند نہیں کیا کہ (حی علی الصلوة) کہہ
کر تمہیں باہر نکالوں اور تکلیف میں مبتلا کروں (اور حماد عاصم سے، وہ عبد اللہ بن حارث سے، وہ ابن عباس
رضی اللہ عنہما سے، اسی طرح روایت کرتے ہیں۔ البتہ انہوں نے اتنا اور کہا کہ ابن عباس رضی اللہ عنہما نے فرمایا
کہ مجھے اچھا معلوم نہیں ہوا کہ تمہیں گھمبھار کروں اور تم اس حالت میں آؤ کہ تم مٹی میں گھٹنوں تک آلودہ ہو گئے
ہو۔“

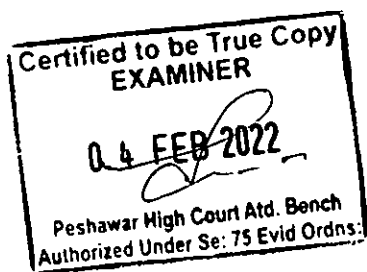
The English translation of the same is as under:-

"Narrated `Abdullah bin Al-Harith: Ibn `Abbas addressed us on a (rainy and) muddy day and when the Mu'adh-dhin said, "Come for the prayer" Ibn `Abbas ordered him to say, "Pray in your homes." The people began to look at one another with surprise as if they did not like it. Ibn `Abbas said, "It seems that you thought ill of it but no doubt it was done by one who was better than I (i.e. the Prophet). It (the prayer) is a strict order and I disliked to bring you out." Ibn `Abbas narrated the same as above but he said, "I did not like you to make you sinful (in refraining from coming to the mosque) and to come (to the mosque) covered with mud up to the knees."

Admittedly, this concession was given to the people keeping in view the inconvenience likely to be caused to them due to bad weather.



8. We have no doubt in our mind to hold that for constitution of every Local Government, Election is essential and such election will have to be fair and in transparent way. The concept of basic democracy/ Local Government as visualized by Article 32 of the Constitution of Islamic Republic of Pakistan, 1973, presupposes the representation of the local people in the Local Government by the method of election. And, before an election machinery is brought into operation, there are some requisites which require to be attended to, namely, (1) there should be set of laws and rules containing provisions with respect to all matters relying to, or in connection with election, and it should be decided how these laws and rules are to be made (2); there should be an executive charged with the duty of securing the due conduct of elections and (3); to ensure that law and order situation is not disturbed or weather conditions of the area where elections are to be held are normal. No doubt, in election process super authority is the Election Commission, the kingpin is the returning officer, and the minions are the presiding officers in the polling stations.



9. We are also conscious of the fact that the conduct of election is in the hands of Election Commission, which has the power of superintendence, directions and control of election vested in it as per

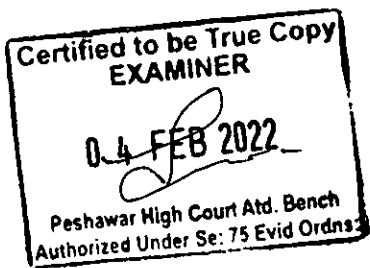
Article 218 of the Constitution. Consequently, if Election Commission is of the opinion that having regard to the disturbed conditions of the area a fair, free and transparent election could not be held, it can postpone the same. However, in the present case, despite various letters written by the Provincial Government of Khyber Pakhtunkhwa and report submitted by DG, Meteorological Department to the Election Commission to postpone the 2nd Phase Local Government Elections in the disturbed area, it could not take decisive step, thus, failed to perform its public duty, calling for interference.

10. Under these circumstances, we are of the view that a fair, free and transparent election is not possible in the aforementioned disturbed areas. We, therefore, set aside the impugned Notification No. **No.F.16(1)/2021-LGE-KP dated 20.01.2022**, and direct the Chief Election Commissioner of Pakistan to reschedule the Elections after Ramadhan, 2022 or as and when the weather is normalized in the aforementioned areas.

Announced.
Dt.01.02.2022.

JUDGE

JUDGE



Ann B

20

The District Education Officer (F)
(EASE) Abbottabad

Subject **ARRIVAL REPORT**

Respected Madam,

In compliance with the director (E&SE) Kyber Pakhtunkhwa Order No 1030-21
F.No.103/SST (M) Transfers-Abbottabad dated Peshawar the 22-12-2021. I submit my arrival for
the post of Assistant District Education Officer (P&D) today on 23-12-2021, for further duty.

(Waseem PMA)
Assistant District Education Officer (P)
(P&D)

EB-11
for M/A P12
27 Dec
24/12/2021

7699
24/12/2021
Abbottabad

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CERTIFICATE OF TRANSFER OF CHARGE

Ann^{cc} 6 (21)

Mr. Waseem Fazal (District Sports officer Abbottabad) at the office of District Sports officer Abbottabad has on this day 27/12/2021 (F/N) Handed over charge of the office of post District Sports Officer Abbottabad in office on this day dated 27/12/2021 vide Govt of Khyber Pakhtunkhwa Elementary Secondary Education Department Peshwar Endst No:7620-220 F.NO 103/SS1(M) Transfer-Abbottabad Dated peshwar the March 22-12-2021.

Signature of Relived: _____

Government Servant: WASEEM FAZAL

Designation (District Sports Officer (Abbottabad))

Signature of Relieving: _____

Government Servant: SYED WAQAS SHAH

Designation (Assistant Superintendent Sports Office (Abbottabad))

STATION: OFFICER OF DISTRICT SPORTS OFFICER:

Dated 27/12/2021(F/N)

Endst No 189/- PP

Dated 27/12/2021

Copy of above is submitted to the following officer for information and favour of further necessary action please.

1. Director, E&Se Khyber Pakhtunkhwa, Peshawar.
2. District Education Officer (Male/Female) Abbottabad.
3. District Account Officer Abbottabad.
4. District Sports Officer Abbottabad
5. Ps To Secretary E& Se Department, Khyber Pakhtunkhwa
6. Ps To Special Secretary E&Se Department, Khyber Pakhtunkhwa
7. Official Concerned.
8. Office record.


DISTRICT SPORTS OFFICER
ABBOTTABAD

Annex 'D'
22

**JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
(JUDICIAL DEPARTMENT)**

WP No. 1776-P/2018

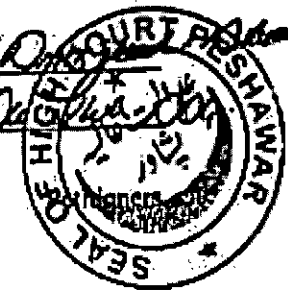
JUDGMENT.

Date of hearing: **22.10.2018**

Petitioner: *Iftikhar Khan et al* vs. *No. 7 & 8*

Respondents: *Sp. Spl. Police District*

WAQAR AHMAD SETH, CJ:-



Iftikhar Khan and another, through the instant Writ Petition, seek issuance of an appropriate writ declaring the impugned Notification dated 08.03.2019, whereby respondents No. 7 & 8 belong to Teaching Cadre have been transferred/posted to Management Cadre/Administrative Cadre, is illegal, without lawful authority, having been issued in absolute disregard of law, judgments/orders passed by this Hon'ble Court in Writ Petition No. 2937/2009 dated 18.11.2019, Writ Petition No. 3663/2012 dated 08.05.2013, Writ Petition No. 4274/2016 dated 11.01.2018 and Notification dated 08.02.2019; thus, liable to be struck down/quashed. They further seek issuance

[Signature]
CHIEF JUSTICE
PESHAWAR HIGH COURT
18 FEB 2020

well as Government Policy duly notified vide Notification dated 08.02.2019.

2. Arguments heard and record perused.

3. Perusal of the record would reveal that in pursuance of National Education Policy, 2009, the Elementary & Secondary Education Department separated Management Cadre from Teaching Cadre vide Notification dated 04.05.2009 and recently, in view of judgment of this Court dated 11.01.2018 rendered in Writ Petition No. 4274-P/2016, respondents have also framed service rules for Management Cadre duly notified vide Notification dated 27.03.2019, but inspite of that, respondents No. 7 & 8, who belong to Teaching Cadre, have been adjusted in Management Cadre vide impugned Notification, which is illegal, unlawful and in absolute disregard of law, thus, the same is liable to be struck down/quashed.

ATTESTED


EXAMINER
Peshawar High Court

(24)

of an appropriate writ declaring that any/all transfers/postings of respondents No. 7 and 8/Teaching cadre staff to the Management/Administrative Cadre posts within their home Districts is illegal, unlawful, in absolute disregard of law, judgments/orders passed by this Hon'ble Court and Notification dated 08.02.2019; thus, merits to be set aside/quashed with further direction to the respondents to follow and comply with the judgment of this Hon'ble Court passed in Writ Petition No. 2937/2009 dated 18.11.2009, Writ Petition No. 3663/2012 dated 08.05.2013, Writ Petition No. 4274/2016 dated 11.01.2018 and Notification dated 08.02.2019 issued in pursuance thereof and also issued direction to the respondents to act in accordance with law by transferring/posting/promotion officers of Management Cadre to the posts of District Education Officer and to restrain the respondents from taking any action/s in violation of law as

EXAMINER
Peshawar High Court

25

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4. Resultantly, the Writ Petition is allowed and the Impugned Notification dated 08.03.2019, whereby respondents No. 7 & 8 have been transferred from Teaching Cadre to Management Cadre, is set aside with direction to the concerned respondent (s) to strictly observe the law/policy by not adjusting the teaching cadre staff in management cadre

ANNOUNCED
 Dated: 22.10.2019



Judge

No. 25120
 Date of Presentation of Application 10/1/2020
 No of Pages 10
 Copies 10
 Total 107
 Date of Preparation of Copy 10/1/2020
 Date of Delivery of copy 10/1/2020
 Received By [Signature]

CERTIFIED TO BE TRUE COPY
 Registrar, High Court, Bangalore
 Registered Under Article 227 of the Constitution of India
 10 FEB 2020

[Signature]
 State High Court (2019) Justice (Judge) State High Court, Bangalore

Reg No. 3 5 8 - -

BC No. 10 - 13 77

Place of Practice Atd.

Name of Advocate M. Zareed Qureshi

S. No. 23636



وکالت نامہ

بعدالت: جناب عدالت عالیہ پشاور ہائیکورٹ بینج ایبٹ آباد

عنوان: شہزاد یوسف بنام: گورنمنٹ KPK وغیرہ

منجانب: پٹیشنر نوعیت مقدمہ: رٹ

باعث تحریر آنک: میں نے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جوابدہی برائے پیشی یا تفسیہ مقدمہ بمقام ایبٹ آباد کے لیے

محرم زریعہ قریشی ایڈووکیٹ ہائیکورٹ

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص روبرو عدالت حاضر ہوتا ہوں گا اور بروقت پکارے جانے مقدمہ وکیل صاحب موصوف کو اطلاع دے کر حاضر عدالت کروں گا۔ اگر پیشی پر مظہر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طور پر ذمہ دار نہ ہو گا۔ کینیڈا وکیل صاحب موصوف صدر مقام پکھری کے علاوہ کسی جگہ یا پکھری کے اوقات سے پہلے یا پیچھے یا پروڈر تعلقین پیروی کرنے کے ذمہ دار نہ ہو گا اور مقدمہ پکھری کے علاوہ کسی اور جگہ ساعت ہونے یا بروز تعطیل یا پکھری کے اوقات لگے آگے پیچھے پیش ہونے پر مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا مختانہ کے واپس کرنے کے لیے صاحب موصوف ذمہ دار نہ ہو گا۔ مجھ کو کل ساختہ پر داخستہ صاحب موصوف مثل کردہ ذات منظور و مقبول ہوگا اور صاحب موصوف کو عرض دعویٰ یا جواب دعویٰ اور درخواست اجراءے ڈگری و نظر ثانی اپیل گمانی و ہر قسم درخواست پر دستخط و تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کرانے اور ہر قسم کاروبار و وصول کرنے اور رسید دینے اور فیصلہ کرنے اور ہر قسم کے بیان دینے اور اس پر ثالثی و راضی نامہ و فیصلہ برحلف کرنے اقبال دعویٰ دینے کا بھی اختیار ہوگا اور بصورت جائے سیر و نجات از پکھری صدر اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یا کٹرفرڈ درخواست حکم امتناعی یا ترقی یا اگر فاری قبل از گرفتاری و اجراءے ڈگری بھی صاحب موصوف کو بشرط ادا ہنگی علیحدہ مختانہ پیروی کا اختیار ہوگا اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار حاصل ہوگا کہ مقدمہ مذکور یا اس کے کسی جزو کی کاروائی کے یا بصورت اپیل کسی دوسرے وکیل کو اپنے بجائے بنائے یا اپنے ہمراہ مقرر کریں اور ایسے وکیل کو بھی ہر امر میں وہی اور ویسے اختیارات حاصل ہونگے جیسے صاحب موصوف کو حاصل ہیں اور دوران مقدمہ جو کچھ ہر جانب التوا پر سے گا وہ صاحب موصوف کا حق ہوگا۔ اگر وکیل صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی پیروی نہ کریں اور ایسی صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

مورخہ: 31-01-2022

دن مہینہ سال

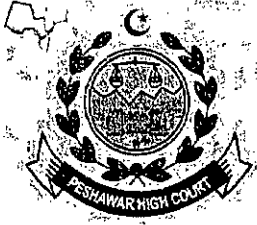
مضمون وکالت نامہ لکھ دیا ہے کہ سندر ہے۔

مضمون وکالت نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

Accepted.

21/1

شہزاد یوسف عباسی ولد محرم یوسف



THE
PESHAWAR HIGH COURT
ABBOTTABAD BENCH.

PH: 0992-9310058
FAX: 0992-9310055

No: 389 to 390

Dated Abbottabad 7/2 /2022

From

The Additional Registrar,
Peshawar High Court,
Abbottabad Bench.

To

1. The Director,
Elementary & Secondary Education,
Khyber Pakhtunkhwa, Peshawar.
2. The Assistant Director (Establishment),
Directorate Elementary & Secondary Education,
Khyber Pakhtunkhwa, Peshawar.

Subject:

WRIT PETITION NO. 139-A/2022.

Shahzad Yousaf Abbasi

Petitioner

VERSUS

Govt. of Khyber Pakhtunkhwa & others

Respondents

Memo,

Reproduce order of the Honourable Division Bench dated 02.02.2022 passed in the subject writ petition for compliance.

“Comments be called from the respondents No.2 & 3, so as to reach this court well before the next date of hearing.”

Interim Relief:

Notice for 16.02.2022. Till then the impugned order dated 26.01.2022 is suspended as the Service Tribunal is not functional at the moment.”

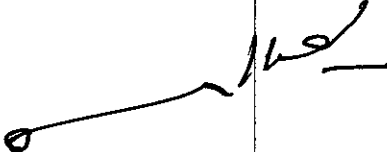

In the light of above order you are directed to submit your comments in quadruplicate duly supported by an attested affidavit before the date fixed i.e 16.02.2022.

As the subject case is fixed before Honourable Court D.B on 16.02.2022 for hearing.

(Copy of writ petition has already been sent by petitioner/ Counsel vide Registered Receipt dated 01.02.2022)

(Additional Registrar)



PESHAWAR HIGH COURT, ABBOTTABAD BENCH.**FORM OF ORDER SHEET**

Date of Order of Proceedings	Order or other Proceedings with Signature of Judge (s)
1	2
02.02.2022	<p><u>W.P.No. 139-A/2022.</u></p> <p>Present: Mr. Muhammad Zareed Qureshi, Advocate, for the petitioner. ***</p> <p>Comments be called from the respondents No.2 & 3, so as to reach this court well before the next date of hearing.</p> <p><u>Interim Relief.</u></p> <p>Notice for 16.02.2022. Till then the impugned order dated 26.01.2022 is suspended as the Services Tribunal is not functional at the moment.</p> <p style="text-align: right;"> JUDGE</p> <p style="text-align: right;"> JUDGE</p>

SCANNED

PESHAWAR HIGH COURT, ABBOTTABAD BENCH.

FORM OF ORDER SHEET

Date of Order of Proceedings	Order or other Proceedings with Signature of Judge (s)
1	2
16.02.2022	<p><u>WP No. 139-A/2022</u></p> <p>Present: Muhammad Zareed Qureshi, Advocate, for the petitioner.</p> <p>Raja Muhammad Zubair, AAG for the respondents.</p> <p>***</p> <p>The latter requests for adjournment as he could not prepare the brief. Adjourned. In the meanwhile, the interim order 02.02.2022 already granted shall remain in the field.</p> <p style="text-align: right;"> JUDGE</p> <p style="text-align: right;"> JUDGE</p>

SCANNED

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR CAMP COURT ABBOTTABAD.**

Appeal No.

Shahzad YousafAppellant

VERSUS

Govt: of Khyber Pakhtunkhwa & Others.....Respondents

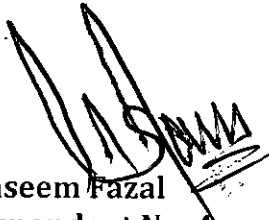
PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 4

Respectfully Sheweth:-

It is submitted as under:

1. That the above titled appeal is pending adjudication before this Honorable Tribunal at Camp Court Abbottabad and today date is fixed for submission of Parawise comments.
2. That the respondents No. 02 & 03 have already submitted their Joint Reply. Answering respondent also rely upon the said comments.

It is therefore, respectfully prayed that the case of appellant may please be dismissed with cost as the appeal of the appellant has already become infructuous and salary of the answering respondents is also stopped.


Waseem Fazal
Respondent No. 4

AFFIDAVIT

I, Mr. Waseem Fazal, do hereby affirm and declare on oath that the contents of forgoing Comments are correct and true according to the best of my knowledge and belief and nothing has been suppressed from this Honorable Tribunal.


DEPONENT

VAKALATNAMA

**BEFORE THE KHYBER PAKHTOONKWA SERVICE
TRIBUNAL PESHAWAR.**

Shahzad Ousaf Abbasi Son Of Muhammad Yousaf, Resident Of Village
Dalola & District Abbottabad.

Versus

Govt. of KPK through Secretary and Others

KNOW ALL to whom these presents shall come that I the undersigned do hereby appoint and authorize Naeem Iqbal Advocate High Court Syed Abdul Basit Gillani Advocates,

(Hereinafter called the Advocates) to be the Advocates for the **Respondents**.

in the above-mentioned cause to do all the following acts, deeds and things or any of them, that is to say:-

1. To act, appear and plead in the above-mentioned case in this Court or any other court in which the same may be tried or heard in the first instance or in appeal or review or revision or execution or in any other stage of its progress until its final decision.
2. To sign, verify and presents pleadings, appeals, cross-objections, or petitions for execution review, revision, withdrawal, compromise or other petitions or affidavits or other documents as shall be deemed necessary or advisable for prosecution of said case in all its stages.
3. To withdrawal or compromise the said case or submit to arbitration any difference or dispute that shall arise touching or in any manner to the said case.
4. To receive moneys and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress and the course of the prosecution of the said case.
5. To engage any other legal practitioner authorizing him to exercise the power and authorities hereby conferred on the counsel whenever he may think fit to do so.

AND I hereby agree to ratify whatever the counsel or his substitute shall do in the promise.

AND I hereby agree not to hold the counsel or his substitute responsible for the result of the said case in consequence of his absence from the court when the said case is called up for hearing.

AND I hereby agree that in the event of the whole or any part of the fee agreed by me to the paid to the Counsel remaining unpaid, he shall be entitled withdrawal from the prosecution of the said case until the same is paid.

IN WITNESS WHEREOF I hereunto set my hand to these presents the contents of which have been explained to and understood by me, this **31th day of March, 2022.**

ACCEPTED subject to the terms mentioned above



Client Signature (s)



HYAT & MEERJEES
ADVOCATES, CORPORATE AND LEGAL CONSULTANTS
3rd Floor, Asif Plaza, Fazal-e-Haq Road, Blue Area,
ISLAMABAD