


29.06.2022

Petitioner present in person. Mr. Kabir Ullah Khattak, Additional Advocate General alongwith Mr. Qazi Ayaz, Litigation Officer for respondents present.

Representative of the respondent department submitted notification No.SO(C-II)/HED/2-5/2022/Posting/Transfer dated 28.06.2022 which is placed on file, through which the judgement of Service Tribunal is implemented conditionally subject to the outcome of CPLA in august Supreme Court of Pakistan.

In view of the above, instant petition is disposed off. File be consigned to record room.

Announced.
29.06.2022





(Fareeha Paul)
Member (E)



Form- A
FORM OF ORDER SHEET

Court of _____

Execution Petition No. 161/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	25.03.2022	<p>The execution petition of Mr. Muhammad Faisal submitted today by Mr. Saadullah Khan Marwat Advocate may be entered in the relevant register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	25-5-22	<p>This execution petition be put up before to Single Bench at Peshawar on <u>31-05-2022</u>. Original file be requisitioned notices be issued to the counsel, and appellat, and Respondents for I/R</p> <p style="text-align: right;"> CHAIRMAN</p>
2	31.05.2022	<p>None present for the petitioner. Mr. Muhammad Adeel Butt, Addl. AG for respondents present.</p> <p>Since no direction was given to the respondents in this Execution petition, therefore, the respondents are directed to implement the judgment and submit implementation report on 29.06.2022 before S.B. Original file be also requisitioned.</p> <p style="text-align: right;"> Chairman</p>



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

Dated Peshawar the 28th June, 2022

NOTIFICATION

NO.SO(C-II)/HED/2-5/2022/Posting/Transfer. In pursuance of Khyber Pakhtunkhwa Service Tribunal judgment dated 27.01.2022 titled Muhammad Faisal VS Govt. of Khyber Pakhtunkhwa through Secretary Higher Education Department, **Muhammad Faisal**, Lecturer in English (BS-17), GDC Sherwan, Abbottabad is hereby transferred and posted at GPGC No.1 Abbottabad, against the vacant post, subject to final outcome of CPLA in August Supreme Court of Pakistan.

-Sd-

SECRETARY TO
GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION DEPARTMENT

ENDST: NO. & DATE EVEN:

Copy forwarded to the:

1. Director, Higher Education, Khyber Pakhtunkhwa, Peshawar.
2. Director-IT, HEMIS, Higher Education Department.
3. Principal, Govt. Postgraduate College, No.1 Abbottabad.
4. Principal, Govt. Degree College Sherwan, Abbottabad.
5. District Accounts Officer, Abbottabad.
6. Lecturer concerned.
7. Master File.


28/6/22
SECTION OFFICER (COLLEGES-II)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Executive petition No. 161 /2022

In Service Appeal No. 7411/2021

Muhammad Faisal

VERSUS

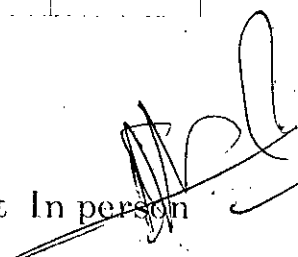
The Secretary to Government of Khyber Pakhtunkhwa,
Higher Education Department, Peshawar and others

INDEX

S#	Description of Documents	Annex	Pages
1.	Grounds of Execution Petition.		1-2
2.	Affidavit.		3
3.	Copy of the order	"A"	4-7
4.	Copy of the application	"B"	8

Dated: 25/03/2022

Applicant In person

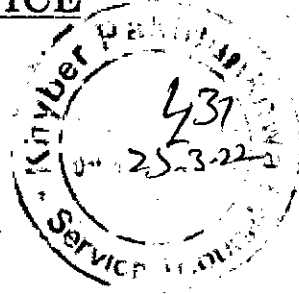

Muhammad Faisal
Lecturer Govt. Degree
College Sherwan
Abbottabad.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

Executive Petition No. 16/ /2022

In Service Appeal No. 7411/2021



Mr. Muhammad Faisal S/o Allah Dad Khan R/O Bakot,
Tehsil & District Abbottabad presently at posted as
Lecturer in English at Government Degree College
Shewarn, Abbottabad.

.....Petitioner

VERSUS

1. The Secretary to Government of Khyber Pakhtunkhwa,
Higher Education Department, Peshawar.
2. Director Higher Education Khyber Pakhtunkhwa,
Peshawar.
3. Deputy Director, Higher Education Khyber
Pakhtunkhwa, Peshawar.
4. Principal Govt Postgraduate College No.1 Abbottabad

.....Respondents

**EXECUTION PETITION FOR DIRECTING
THE RESPONDENTS TO IMPLEMENT THE
JUDGMENT DATED 17/04/2018 OF THIS
HON'BLE TRIBUNAL IN LETTER AND
SPIRIT**

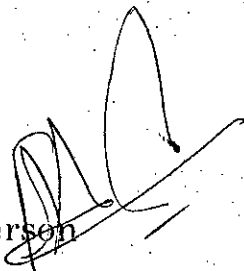
Respectfully Sheweth,

1. That the applicant/appellant filed Service Appeal
No.7411/21 in this Hon'ble Service Tribunal
against transfer notification No.SO(C-II)/HED/2-
5/Posting/ Transfer on dated 13.08.2021, whereby
the appellant was transferred from Government
Postgraduate College No.1 Abbottabad to
Government Degree College Sherwan Abbottabad.

2. That this Hon'ble Service tribunal had accepted the appeal No.7411/21 submitted by the appellant dated 27.01.2022. **(Copy of the order is attached)**
3. That the appellant submitted the judgment/order dated 27/01/2021 alongwith application to the respondent department but no action has been taken by the department so far. **(Copy of the application is attached).**
4. That the judgment is still in process and has not been suspended or set aside by the Supreme Court of Pakistan, therefore, the respondents are legally bound to implement the judgment of this Hon'ble Service Tribunal in its true sense.
5. That the petitioner has no remedy except to file this execution petition.

It is, therefore, most humbly prayed that the respondents may be directed to implement the judgment of this Hon'ble Service Tribunal in letter and spirit.

Dated: 25/03/2022

Applicant In person 

Muhammad Faisal
Lecturer Govt. Degree
College Sherwan
Abbottabad.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Executive petition No. _____/2022

In Service Appeal No. 7411/2021

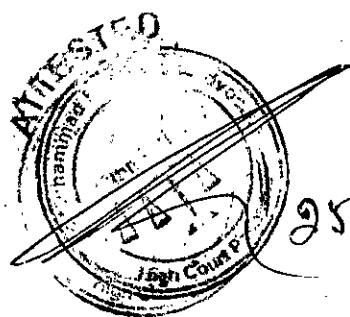
Muhammad Faisal

VERSUS

The Secretary to Government of Khyber Pakhtunkhwa, Higher Education Department, Peshawar and others

AFFIDAVIT

I, Mr. Muhammad Faisal S/o Allah Dad Khan R/O Bakot, Tehsil & District Abbottabad presently posted as Lecturer in English at Government Degree College Shewarn, Abbottabad, do hereby solemnly affirm and declare on oath that all the contents of the instant **Execution Petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



Deponent
Muhammad Faisal

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 7411/2021

Date of Institution ... 14.09.2021
Date of Decision ... 27.01.2022



Muhammad Faisal S/O Allah Dad Khan R/O Bakot, Tehsil & District Abbottabad, presently posted as Lecturer in English at Government Degree College Sherwan, Abbottabad.

(Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary, Higher Education Peshawar and three others.

(Respondents)

Muhammad Faisal,
Appellant

Pro Se.

Kabir Ullah Khattak,
Additional Advocate General

For respondents.

Salah-Ud-Din
Rozina Rehman

Member (J)
Member (J)

JUDGMENT

ROZINA REHMAN, MEMBER (J): The appellant has invoked the jurisdiction of this Tribunal through above titled appeal with the prayer as copied below:

"On acceptance of instant appeal, the impugned Notification dated 13.08.2021 may kindly be set aside to the extent of appellant and the respondents be graciously directed not to compel the appellant to hold on the charge of the post of Lecturer in English at Government Degree College Sherwan, with further

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

directions that the impugned notification dated 13.08.2021 may be modified by retaining the appellant on his previous position at Government Postgraduate College No.1 Abbottabad".

2. Brief facts of the case are that appellant was appointed as Lecturer in English through Public Service Commission. He was transferred from Government Degree College, Boi to Government Postgraduate College No.1, Abbottabad, wherefrom, he was transferred once again to Government Degree College Sherwan, Abbottabad vide order dated 28.08.2018. He filed Departmental appeal which was not responded to, hence the present service appeal.

3. We have heard Muhammad Faisal appellant and Kabir Ullah Khattak, learned Additional Advocate General for respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Appellant Muhammad Faisal, inter-alia, argued that transfer order dated 13.08.2021 is against law, transfer/posting policy, being discriminatory and premature, therefore, is liable to be cancelled; that the impugned Notification was passed without lawful authority and in sheer violation of the transfer posting policy of the Provincial Government which is contradictory to the E-Transfer System Notification issued on 14.07.2021. He contended that the good governance demands that whatever is provided in law is to be followed stricto-senso and that the transfer of the appellant being

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

issued in utter violation of law is therefore, liable to be cancelled being arbitrary and antithetical.

5. Conversely, learned AAG submitted that appellant was transferred to Government Postgraduate College No.1, Abbottabad vide Notification dated 25.11.2016 but later on, vide office order dated 28.08.2018, he was temporarily adjusted in Government Degree College Boi, Abbottabad under Rationalization Policy and that his permanent posting was at Government Postgraduate College No.1, Abbottabad. He contended that appellant is bound to serve anywhere where competent authority transfers under Section-10 of the Civil Servants Act, 1973 and that he was transferred on need basis and in the best public interest.

6. From the record it is evident that appellant was appointed as Lecturer in English through Public Service Commission in Higher Education Department. Vide Notification dated 25.11.2016 appellant was transferred from GDC Nathiagali to GPGC No.1, Abbottabad. It was on 28.08.2018 when appellant was transferred from GPGC No. 1, Abbottabad to GDC Boi on temporary basis under rationalization policy. He was again transferred to GPGC No.1 Abbottabad on 29.09.2019 and lastly, vide impugned transfer order dated 13.08.2021, he was transferred from GPGC No.1, Abbottabad to GDC Sherwan Abbottabad. Admittedly, as per transfer posting policy, he had not completed his tenure at GPGC No.1, Abbottabad. Admittedly, traditional/manual posting transfer exercise has been stopped by the Government of Khyber Pakhtunkhwa Higher Education Department and in this regard, proper instructions were issued to the concerned

ATTESTED

JK

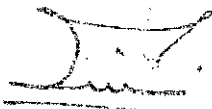
EXAMINER
Khyber Pakhtunkhwa
Service Commission
Peshawar

AS


authorities to direct aspiring staff to use the web application for posting/transfer requests. Despite implementation of E-Transfer/Posting System in General and Commerce Colleges in Khyber Pakhtunkhwa, the impugned order was passed as per traditional/manual exercise. The appellant was transferred before completion of his tenure, whereas, other teaching staff posted at GPGC No.1, Abbottabad has been serving there for the last ten to thirteen years and they are not being disturbed. In this regard, proper record was produced by the appellant which is placed on file showing the tenure of different teaching staff which record was not denied/rebutted by the respondents.

7. Keeping in view the above discussion, this appeal is allowed in the terms that E-Transfer/Posting System be implemented in case of the appellant by giving him option and then to transfer him in view of his options according to law. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
27.01.2022


(Salah-ud-Din)
Member (J)


(Rozina Rehman)
Member (J)

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Annexure "B"

To
SECY HED
File Received on
Date
Time

The Secretary Higher Education,
Archives & Libraries Department
Khyber Pakhtunkhwa.

Subject: For Implementation of the Judgment of Service Tribunal KP

Respected Sir,

It is to state that Khyber Pakhtunkhwa Service Tribunal has admitted my appeal against transfer notification No.SO(C-II)/HED/2-5/Posing/Transfer, Serial No 43. (Copy of the notification attached)

I therefore, humbly submit to make this judgment effective & operative by issuing notification accordingly. (Copy of the Judgment is attached)

Thanking in anticipation.

Respectfully Yours,

Muhammad Faisal

Lecturer in English

Govt Degree College Sherwan

Abbottabad