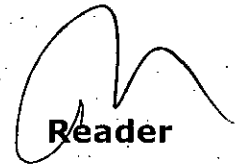


28.07.2022

Due to summer vacations, the case is adjourned to 29.09.2022 for the same as before.



Reader

29.09.2022

Appellant in person present. Mr. Muhammad Kamran, ADEO alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present and sought time for submission of reply/comments. Adjourned. To come up for submission of reply/comments on 25.10.2022 before the S.B at Camp Court D.I.Khan.



(Salah-Ud-Din)
Member (J)
Camp Court D.I.Khan

25.10.2022

Appellant present through counsel.

Kabir Ullah Khattak, learned Additional Advocate General alongwith Muhammad Kamran ADEO for respondents present.

Reply not submitted. Representative of respondents requested for time to submit reply. Last opportunity is granted. To come up for reply/comments on 23.11.2022 before S.B at Camp Court, D.I Khan.



(Rozina Rehman)
Member (J)
Camp Court, D.I.Khan

29th June, 2022

Counsel for the appellant present.

According to the learned counsel for the appellant, the appellant was posted at GPS Sheikh Mali, D.I.Khan from where without allowing him to complete the tenure, he was transferred vide order dated 31.12.2021 to GPS Khan Abad, D.I.Khan on which he filed an application to the DEO (M) D.I.Khan on 18.02.2022. Whereafter he was further transferred vide order dated 07.03.2022 to GHSS No.3 D.I.Khan. He alleges that he was being victimized on political grounds and was not being allowed to complete tenure at any place. Against the subsequent order dated 07.03.2022, he filed departmental appeal which was not responded within ninety days. He then filed this appeal which is within time. Let this appeal be admitted to full hearing subject to all just and legal objections by the other side. The appellant is directed to deposit security and process fee and security within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 28.07.2022 before S.B at camp court D.I.Khan at camp court D.I.Khan.

As to the application for suspension of the operation of the impugned orders it is directed that operation of the last order that is of 07.03.2022 is suspended till the next date subject to the notices to the other side.



(Kalim Arshad Khan)
Chairman
Camp Court D.I.Khan

Rs-500/-
Appellant Deposited
Security & Process Fee



A. J. 4/7/22

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. - 925/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	17/06/2022	<p>The appeal of Mr. Shahid Ilyas presented today by Mr. Muhammad Bilal Advocate 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-	20-6-2022	<p>This case is entrusted to touring Single Bench at D.I.Khan for preliminary hearing to be put there on <u>29.06.22</u>. Notices be issued to appellant and his counsel for the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

In service Appeal No. 925/2022

Shahid Ilyas
(Appellant)

VERSUS

GOVT of KPK etc
(Respondents)

INDEX

S. No.	Particulars of documents	Annexure	Page
1.	Service appeal with affidavits along with CM Petition.		
2.	Copy of the transfer order dated 31/12/2021	A	
3.	Copy of departmental appeal/application dated 18/02/2022	B	
4.	Copy of the impugned transfer order No. 3876-79 dated 07/03/2022	C	
5.	Copy of departmental appeal	D	
6.	Vakalatnama	--	

Dated: 16/06/2022

Humble Appellant


Shahid Ilyas

Through Counsel


Muhammad Bilal
Advocate High Court

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Service Appeal No. _____/2022

Shahid Ilyas son of Qulli Khan r/o Kachi Paind Khan Dera
Ismail Khan. Presently working as Chowkidar at GPS
Sheikh Malli, District Dera Ismail Khan.
Cell#0340-1957980.

(Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa, through Secretary Education Department, Khyber Pakhtunkhwa Peshawar.
2. Director, Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Male) Dera Ismail Khan.

..... **(RESPONDENTS)**

APPEAL UNDER SECTION 4 OF THE KPK SERVICES
TRIBUNAL ACT, 1974, AGAINST THE IMPUGNED
TRANSFER ORDER NO. 28541-46 DATED
31/12/2021 AND THE IMPUGNED TRANSFER
ORDER NO. 3876-79 DATED 07/03/2022 ISSUED
BY RESPONDENT NO. 3, WHEREBY SERVICES OF
THE APPELLANT WAS TRANSFERRED FROM GPS
KHAN ABAD TO GHSS NO. 3 DERA ISMAIL KHAN
ON POLITICAL INFLUENCE.

Shahid

PRAYER

On acceptance of this service appeal by declaring the impugned transfer order No. 3876-79 dated 07/03/2022 issued by respondent No. 3 as illegal, without jurisdiction, without law full authority and based on political influence.

Any other relief deemed appropriate in the given circumstances may also be granted to the appellant in the large interest of justice.

Note: Addresses given above shall suffice the object of service. All necessary and proper parties have been arrayed in the panel of respondents.

Respectfully Sheweth;

1. That the appellant is a bonafide resident of District Dera Ismail Khan and is serving as Chowkidar at GPS Sheikh Mali District Dera Ismail Khan since September 2021.
2. That the appellant always performed his duties with due diligence, dedication and devotion, complying fully with the assigned tasks to the utter satisfaction of his superiors with no complaint whatsoever, either from public or his superiors.
3. That although the petitioner was transferred on the said post since September 2021 but ironically on 21/01/2022 the appellant received the impugned transfer order No. 28541-46 dated 31/12/2021 on whatsapp vide which the service of appellant is transferred from GPS Sheikh Mali to GPS Khanabad Dera Ismail Khan without any lawful justification but just on the political influence. Copy of the transfer order dated 31/12/2021 is annexed as Annexure-A.

Shahar Khan

4. That the appellant filed a representation/application to the respondent#3 with the request to cancel the impugned transfer order of the appellant. Copy of application dated 18/02/2022 is annexed as **Annexure-B**.
5. That ironically the petitioner was once again transferred from GPS Khan Abad to GHSS No. 3 Dera Ismail Khan vide impugned transfer order No. 3876-79 dated 07/03/2022 again on political influence. Copy of the impugned transfer order No. 3876-79 dated 07/03/2022 is annexed as **Annexure-C**.
6. That petitioner once against preferred a departmental appeal dated 15/03/2022 against the order dated 07/03/2022 which was not decided as yet. Copy of the departmental appeal is annexed as **Annexure-D**.
7. That Feeling aggrieved by the impugned transfer orders, the appellant having left with no other remedy, the appellant is challenging the same by way of instant appeal, on inter alia the following grounds:-.

GROUND: -

- A. That the impugned transfer order No. 3876-79 dated 07/03/2022 is against the Constitution, Service Laws, Transfer Rules & Policy, and natural justice.
- B. That transfer of Govt. Employees can't be made on the interference of political figures which is offensive to the Constitution and the law on the subject because Ministers, MPA's, MNA's and Senators, all are under oath to discharge their duties in accordance with the Constitution and Law.
- C. That the impugned transfer order is pre-mature one because the appellant is working in the GPS Sheikh Malli since six months while the service tenure is 3 years: Hence, on this

Shahin

5.
sole ground. the impugned transfer order is liable to be cancelled.

D. That bare perusal of transfer order of the appellant clearly reflects that he did not completed his tenure according to transfer policy and rules therein at every place of his posting, so, this kind of illegal acts on behalf of respondents need to be set aside by this Tribunal at its appellate jurisdiction.

E. That while issuing the impugned office order the respondent No. 3 did not care the policy of the transfer because the impugned transfer order by itself is illegal due to the non-observance of the normal tenure of an employee and it is further pertinent to mention here that the appellant even has not completed one year of his services at the same post. Hence the impugned office order of the appellant is liable to be set aside.

F. That acts of the respondents especially respondent No. 3 is without jurisdiction based on mala fide and political based hence liable to be declares as null and void by this Honourable Court.

G. That Counsel for the appellant may please be allowed to raise additional grounds during the course of arguments.

It is therefore respectfully prayed that the instant appeal may please be accepted as prayed for,

Dated: 16/06/2022

Humble Appellant

Shahid Ilyas

Shahid Ilyas
Through Counsel

Muhammad Shahab Khan

Muhammad Shahab Khan
Advocate High Court
Dera Ismail Khan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

In service Appeal No. _____ /2022

Shahid Ilyas
(Appellant)

VERSUS

GOVT of KPK etc
(Respondents)

CERTIFICATE

Certified that appellant have not filed an appeal regarding the subject controversy, earlier in this august Court.

Dated ___/06/2022


Appellant

NOTE

Appeal with annexure along-with required sets thereof are being presented in separate file covers.

Dated 16/06/2022

Appellant's counsel

Shahid

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

In service Appeal No. _____/2022

Shahid Ilyas
(Appellant)

VERSUS

GOVT of KPK etc
(Respondents)

AN APPLICATION FOR INTERIM RELIEF IN SHAPE OF
SUSPENDING THE IMPUGNED TRANSFER ORDER NO. 28541-
46 DATED 31/12/2021 AND THE IMPUGNED TRANSFER
ORDER NO. 3876-79 DATED 07/03/2022 AND BY DIRECTING
TO RESPONDENTS TO NOT TAKE ANY ADVERSE ACTIONS
AGAINST THE APPELLANT.

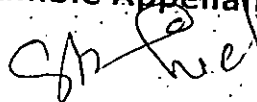
Respectfully Sheweth;


1. That contents of the main appeal may please be read as an integral part of this application.
2. Appellant has prima facie case balance of convenience also tilts in favour of the appellant.
3. That if the impugned transfer order is not suspended then the appellant will suffer irreparable loss and the instant appeal would become infructuous.

It is, therefore, humbly prayed that the instant application may please be accepted as prayed for.

Dated: 16/06/2022

Humble Appellant


Shahid Ilyas
Through Counsel


Muhammad Shahab
Khan
Advocate High Court
Dera Ismail Khan

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

In service Appeal No. _____/2022

Shahid Ilyas
(Appellant)

VERSUS

GOVT of KPK etc
(Respondents)

AFFIDAVIT

I, Shahid Ilyas, the appellant herein, do hereby solemnly affirm on oath:-

1. That the accompanying CM has been drafted by counsel following my instructions;
2. That all parawise contents of the CM are true and correct to the best of my knowledge, belief and information;
3. That nothing has been deliberately concealed from this Honourable Tribunal, nor anything contained therein is based on exaggeration or distortion of facts.

Dated: 16/06/2022


Deponent

Identified By:-


Muhammad Shahab Khan
Advocate High Court

(10)

ANNEXURE A

**OFFICE OF THE DISTRICT EDUCATION OFFICER (M)
DERA ISMAIL KHAN**

TRANSFER ORDER

Transfer of the following Class-IV is hereby made in the interest of public service with immediate effect.

S.No	NAME & DESIGNATION	FROM	TO	REMARKS
1	Muhammad Faqir Khan (Chowkidar)	GPS, No: I Jhoek Malana	GHSS, Behari Colony, DIKhan	Against V.P
2	Muhammad Shahid Ilyas (Chowkidar)	GPS, Sheikh Mali, DIKhan	GPS, Khan Abad, DIKhan	Against V.P

1. Charge report should be submitted to all concerned.
2. No TADA is allowed.

Sd/-
DISTRICT EDUCATION OFFICER
(M) DERA ISMAIL KHAN.

Encls. No. 2-8541-46 (AE-III/C-IV/DEO (M))

Dated DIKhan The 31/12 /2022

Copy to the

1. Principal, GHSS, Behari Colony, D.I. Khan.
2. District Accounts Officer, DIKhan.
3. District Monitoring Officer, D.I. Khan.
4. Sub-Divisional Education Officer (Male) Paroa.
5. Head Teacher concerned.
6. Official Concerned.


DISTRICT EDUCATION OFFICER
(M) DERA ISMAIL KHAN.

۱۱ - B
کمیٹی میں جناب ڈی سیکرٹری ایجوکیشن، افسس (مدیرانہ) ڈیڑھ اسماہیل خان

~~26/1/22~~
18/2/22

جناب والی

گزارش ہے کہ بندہ گورنمنٹ پرائمری سکول پنج بلی میں بطور پولیڈار ایئر

مزانس سہرا جام دے ریہ ہے بندہ کو $\frac{24}{2022}$ کو بڈرلڈ والی آپ اب اس

ٹرانسفر آرڈر نمبر 28541-46 فورم $\frac{12}{2022}$ کو وصول ہوا بندہ اس سکول میں

$\frac{24}{2022}$ میں حاضر تھا اور بندہ کو کوئی آرڈر نہیں مل تھا کلمہ لکھنے سے جناب

کالی بندہ کو اس سکول میں حاضر کرنے سے پہلے اس کے چچا جیو ماہ بیوٹے سے اور

بندہ کا اگلی تک ٹیور یعنی پورا نہیں ہوا ہے بندہ کو جو ٹرانسفر لیسر وصول ہوا

وہ $\frac{12}{2022}$ کا ہے تاہم وہ مطالبہ اگر کا دن میں جاری نہ کیا جائے تو آرڈر سنل لکھو

بیوٹے کے $\frac{19}{2022}$ کو بندہ فائینڈنگ سے پیار لکھنے سے جسے حاضر کیا ہے اب

جناب سے گزارش کی جاتی ہے کہ بندہ کو ایسے سکول میں حاضر کرنے کی اجازت دی

جائے اور ٹرانسفر آرڈر کو سنل کیا جائے

تور $\frac{15}{2022}$ 18/2/22

العارض

شاید ایسی پولیڈار گورنمنٹ ڈائری ایئر سکول پنج بلی



**OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) DERA ISMAIL KHAN**

Tell: 09669280128-09669280131
Email: emisdikhan@yahoo.com

TRANSFER ORDER

The following transfer of Class-IV servants are hereby made in the interest of public service with effect from the date of taking over charge.

S.No	Name of Official	Desig.	From	To	Remarks
1	Irfan Ali	Chowkidar	GHS No. 6 DIKhan	GHSS Bahar Colony DIKhan	Vacant Post
2	Hafiz Muhammad Rizwan	Chowkidar	GPS Moqem Shah DIKhan	GHS No. 6 DIKhan	Vice S.No. 1
3	Sufdar Pervez	NQ	GMS Kat Kachi Paind Khan DIKhan	GMS Sagri Shumali DIKhan	Additional Post
4	Shahid Muhammad Ilyas	Chowkidar	Under Transfer to GPS Khan Abad DIK	GHSS No. 3 DIKhan	Vice S.No. 1
5	Muhammad Faisal	Chowkidar	GHSS No. 3 DIKhan	GPS Hatt Rohan DIKhan	Additional Post
6	Ehsanullah	Chowkidar	GPS Shokh Badam working as GPS Wanda Kall DIK	GPS No. 6 DIKhan	Vacant Post
7	Shaban Abbas	Chowkidar	GMS Wanda Norik DIKhan	GPS Moqem Shah DIKhan	Vice S.No. 1

Date:

Change regarding transfer of staff is hereby notified.

2. NO TAVDA is allowed

3. The order will take effect from

Site

District Education Officer
(Male) Dera Ismail Khan

Encls. No. 3375/71 /DEO(M)

Dated: 7/3/2022

Copy forwarded for information & necessary action to the

1. Principal, District Master / S.D.O. Government
2. District Commissioner of Agriculture, DIKhan
3. Official concerned
4. Master file

(Signature)
District Education Officer
(Male) Dera Ismail Khan

"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR.

No.

APPEAL No. of 20

923

TB DIKhan
22

Shahid Ilyas

Appellant/Petitioner

Versus

Through Secy. (EGSE) Pesh

RESPONDENT(S)

Notice to Appellant/Petitioner

Shahid Ilyas S/o Dulli Khan

R/o Kachi Raind Khan DIKhan Presently
Working as Chawkidar at GPS Sheikh Mulla
DIKhan

Take notice that your appeal has been fixed for Preliminary hearing,
replication, affidavit/counter affidavit/record/arguments/order before this Tribunal
on 29-6-22 at 8:00 AM

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

at camp court
DIKhan

Registrar,

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

"A"

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

Page 9
No.

APPEAL No..... 925 of 20 22

Shahid Hyas

Appellant/Petitioner

Versus

Through Secy: (CESF) Pesh

RESPONDENT

Notice to Appellant/Petitioner

Mohammad Bilal
(Advocate)

High Court Diler

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 29/6/22 at 8.00 AM

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

at camp court

Diler

Registrar,

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.