

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 6878/2020

Date of institution 07.07.2020

Saraj Gul, PSHT (BPS-15), S/O Rahim Gul. R/O Saleem Khan District Swabi, Posted GPS Sara Kohi Bala Swabi.

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary at Civil Secretariat Peshawar and three others.

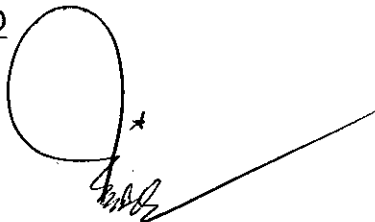
ORDER
31.10.2022

Mr. Muhammad Arif Jan, Advocate, for the appellant present. Mr. Muhammad Jan, District Attorney for the respondents present.


Learned counsel for the appellant stated at the bar that the grievance of the appellant has been redressed, therefore, he wants to withdraw the instant appeal. In this respect, written endorsement of learned counsel for the appellant obtained at margin of order sheet.

In light of the above, the appeal in hand stands dismissed as withdrawn. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
31.10.2022



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

Counsel for appellant wants to withdraw the filed appeal

22.08.2022

Clerk of learned counsel for the appellant present. Mr. Muhammad Adeel Butt, learned Additional Advocate General for the respondents present.

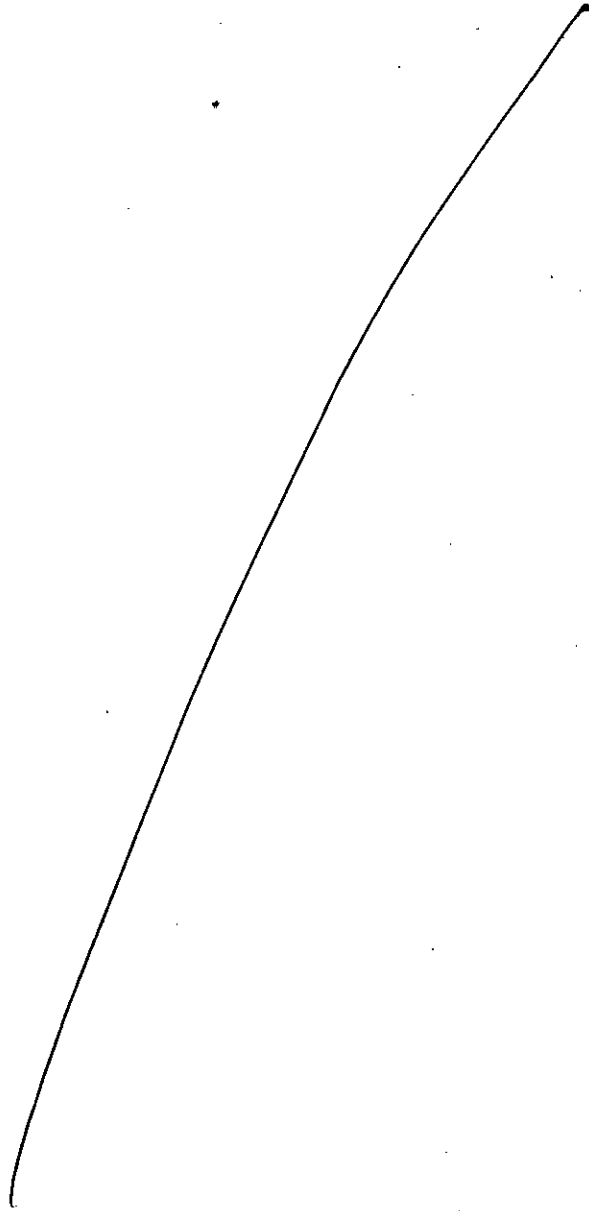
Learned AAG sought time for submission of reply/comments. Last opportunity is given. If the reply/comments are not submitted till next date, right of respondents for submission of reply/comments shall be deemed as struck off. To come up for arguments on 31.10.2022 before the D.B.



(Rozina Rehman)
Member(J)



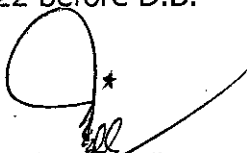
(Salah-Ud-Din)
Member(J)




10.11.2021

Mr. Afzal, Advocate, Junior of learned counsel for the appellant. Mr. Kabirullah Khattak, Addl: AG for respondents present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned senior counsel is busy before the Hon'able Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 03.03.2022 before D.B.


(Mian Muhammad)
Member(E)


(Rozina Rehman)
Member(J)

03.03.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 08.06.2022 for the same as before.

8.6.22


Reader.

Proper D.B is an Taur, therefore the case is adjourned to 22.8.22 for same.



16.03.2021

Due to tour of Camp Court Abbottabad and shortage of Members at Principal Bench Peshawar, the case is adjourned to 23.06.2021 before S.B.


Reader

23.06.2021

Counsel for the appellant present. Preliminary arguments heard.

Points raised need consideration. The appeal is admitted to regular hearing, subject to all just and legal objections including limitation. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days of the receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments on 10.11.2021 before the D.B.


Chairman

19.10.2020

Mr. Kabirullah Khattak, Additional Advocate General for the respondents is present.

The legal fraternity is observing strike today, therefore, the case is adjourned to 23.12.2020 on which date to come up for arguments on the point of limitation as well as preliminary hearing before S.B.

(Muhammad Jamal Khan)
Member (Judicial)

23.12.2020

Senior counsel for appellant present

He made a request for adjournment as senior counsel is not available. Adjourned. To come up for preliminary hearing on 16.03.2021 before S.B.

Rozina Rehman
Member (J)

23.12.2020

Junior counsel for appellant present.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Former made a request for adjournment as senior counsel is not available. Adjourned. To come up for preliminary hearing on 16.03.2021 before S.B.

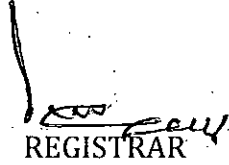

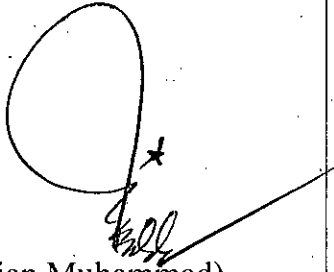
(Rozina Rehman)
Member (J)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 6878 /2020

1S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	07/07/2020	<p>The appeal of Mr. Siraj Gul presented today by Mr. Muhammad Arif Jan 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> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>20/08/2020</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>20.08.2020</p> <p>Counsel for the appellant present.</p> <p>Preliminary arguments to some extent heard. Let pre-admission notice be issued to the learned Additional Advocate General to assist the Tribunal regarding the issue of limitation of the instant appeal.</p> <p>Adjourned to 19.10.2020 before S.B.</p> <p style="text-align: right;"> (Mian Muhammad) Member(E)</p>

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

SVC.APPEAL No. 6878 2020

Siraj Gul PSHT BPS-15..... Appellant

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary and others

.....Respondent

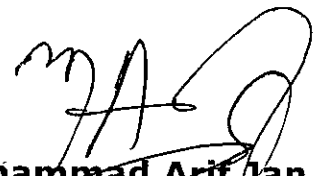
s

INDEX

S.No.	Description of documents.	Annexure	Pages
1.	Service Appeal with affidavit		1-4
2.	Addresses of parties		5
3.	Copy of notification dated 29-08-2019	A	6-7
4.	Copy of impugned policy	B	8-13
5.	Copy of departmental appeal	C	14
6.	Copy of Act, 2011	D	15-20
7.	Wakalatnama		21

Appellant

Through



Muhammad Arif Jan

Advocate High Court

Cell: 0333-2212213

**BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

SVC.APPEAL No. _____ 2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 6313

Dated 7/7/2020

Saraj Gul, PSHT BPS-15, S/o Rahim Gul, R/O Saleem Khan Distt
Swabi, Posted GPS Sara Kohi Bala Swabi.

..... Appellant

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary at civil secretariats Peshawar.
2. Secretary Elementary and Secondary Education Khyber Pakhtunkhwa Civil Secretariat Peshawar
3. Director Elementary and Secondary Education Khyber Pakhtunkhwa Main G.T Road Peshawar.
4. District Education Officer (male) District, Swabi.

..... Respondents

SERVICE APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED E-TRANSFER POLICY OF TEACHING CADER IN (E & SE) DEPARTMENT KHYBER PAKHTUNKHWA DATED 11-09-2019 AND ALL SUBSEQUENT ACTS AGAINST THE APPELLANT AGAINST WHICH THE DEPARTMENTAL APPEAL PREFERRED AND THE SAME HAS NOT BEEN DECIDED WITHIN STATUTORY PERIOD BY THE RESPONDENT NO-1.

Respectfully Sheweth:-

Filed to-day

Registrar

7/7/2020

1. That the appellant is law abiding citizen of Pakistan and presently serving in Education Department and initially was appointed as trained PTC in BPS-7 then was adjusted against the vacant post and lastly was posted at GPS Paitai Banda from where was posted/adjusted at GPS Sarkoi Bala.

2. That due to outstanding performance and fulfilling all the codal formalities for promotion, the appellant was promoted to BPS-15 as PSHT vide notification dated 29-08-2019 and was transferred/ adjusted against the respective school, which is not only far flanged but are also located in other than his home Tehsil.(Copy of the notification dated 29-08-2019 is attached as annexure A).
3. That the government of Khyber Pakhtunkhwa introduced E-transfer Policy of teaching cadre in respondents' Departments for the first time vide notification date 11.09.2019 (**hereinafter impugned**) but it is worth mentioning that the said policy has been applied against the appellant retrospectively despite of the fact that no retrospective effect has been mentioned in the policy. (Copy of the policy attached as Annexure-B).
4. That the appellant challenged the impugned policy before respondent No-1 for which he is bound down under the law to disposed of the representation within the statutory period but of no avail.(Copy of departmental representation is attached as Annexure-C).
5. That the appellant now approaches this honorable Tribunal on the following amongst other grounds;

GROUND:

- A. That the impugned E-Transfer Policy is in conflict with the Khyber Pakhtunkhwa (Appointment, Deportation, Posting and Transfer of Teachers, Lecturer, Instructors and Doctors) Regulatory Act, 2011 hereinafter referred as Act, 2011. (Copy of Act, 2011 is attached as ANNEX-D).
- B. That the impugned E- transfer policy notified by the government is also against the Appointment, Promotion and Transfer Rules (APT)-1989 (hereinafter referred as Rules 1989). Moreover, is also in conflict with the other existing laws, rules and regulations governing the subject matter moreover the Appointment, Promotion and Transfer Rules, 1989 not only bypassed but also loss its purpose and objectives in letter in spirit. By this way, the appellant will not be able to posted/transferred to

3

native town despite of the fact that on one hand, the appellant also completed major portion to hard area tenure.

- C. That the acts, commission and omission by way of bringing the E-transfer policy and further the inappropriate posting/transfer order of the appellant vide notification dated 29-08-2019 is patently illegal, unlawful, against the existing laws, rules and regulations governing the subject matter, thus liable to be declared void-ab-initio and the appellant may kindly be transfer to GPS Bakar or any vacant post closed to native town as the august Supreme Court of Pakistan also hold the facilitation of employees near to their retirement in a series of Judgments.
- D. That no doubt transfer/ posting of an employee is part and parcel of service, but in the present case, the transfer of the appellant is not only corporal punishment for them but also victimization and deprivation of the appellant from basic and fundamental rights extended to other employees and further the respondents knowingly the fact of completion of hard area tenure, badly failed to adjust/transfer the appellant to near station.
- E. That the appellant is posted far away from his family, relatives and home town. The appellant is not only having accommodation problems but there is no hotels or other safe accommodation facilities due to which the appellant compel to use school for residence purposes which is not safe and any unpleasant and life threatening incident may happen.
- F. That due to the impugned policy the appellant cannot visit his family even once in a month due to long journey and short interval at his disposal. This leaves a very negative impact on his working ability, family ties, social interaction, mental condition and serving ability.
- G. That recreation and entertainment is vital need of human nature but the appellant is deprived and he is passing a sort of solitary confinement as

4

the school is situated away from the population among hills and a person from like out district finds it difficult to face the challenges.

It is, therefore, most humbly prayed that on acceptance of the instant petition, the impugned E-Transfer policy may graciously be declare illegal unlawful void-ab-intitio ineffective upon the rights of the appellant.

Further the respondent No-4 may kindly be directed to adjust/transfer the appellant to GPS Bakar or any vacant post laying near to native town of the appellant.

Any other relief, which this Honorable Tribunal may deem just and proper may also be awarded to the appellant.

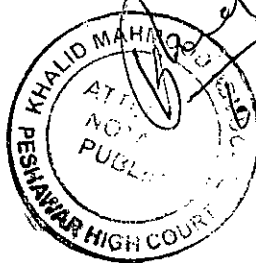

Appellant

Through


Muhammad Arif Jan)
Advocate High Court

AFFIDAVIT

I, SirajGul, PSHT BPS-15, S/o Rahim Gul, R/O Saleem Khan Distt Swabi, Posted GPS Sara Kohi Bala Swabi (Appellant), do hereby affirm and declare on oath that the contents of accompanying Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble court.




Deponent

5

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

SVC.APPEAL No. _____ 2020

Siraj Gul PSHT BPS-15..... Appellant

VERSUS

Government of Khyber Pakhtunkhwa through Chief Secretary and others

.....Respondent

s

ADDRESSES OF THE PARTIES

APPELLANT.

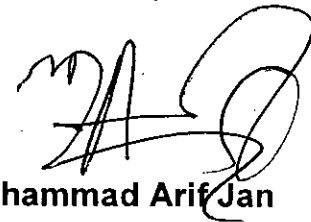
Siraj Gul, PSHT BPS-15, S/o Rahim Gul, R/O Saleem Khan Distt Swabi,
Posted GPS Sara Kohi Bala Swabi.

RESPONDENTS:

1. Government of Khyber Pakhtunkhwa through Chief Secretary at civil secretariats Peshawar.
2. Secretary Elementary and Secondary Education Khyber Pakhtunkhwa Civil Secretariat Peshawar
3. Director Elementary and Secondary Education Khyber Pakhtunkhwa Main G.T Road Peshawar.
4. District Education Officer (male) District, Swabi

Appellant

Through



Muhammad Arif Jan

Advocate High Court



6

Annex B.

12
Annex A

Office of the District Education Officer (Male), Swabi
Office phone & Fax No 0938280239, emis_swabi@yahoo.com

Adjustment of PSHT BPS-15:

Consequent upon the promotion order issued vide notification Endst: No. 10675-G, dated: 08-08-2019, the following Senior Primary School Teachers BPS-14 are hereby adjusted against the posts of Primary School Head Teachers BPS-15 in the schools noted against their names on the terms and conditions given below in the best interest of the public service with immediate effect.

S.No.	Sen. No	Name of Teacher	Father Name	Name of School	Name of School Where Adjusted
	71	Ashraf Hussain	Saifur Rehman	GPS No.1 Sheikh Jana	GPS Adda K.S.K
	73	Rahim Khan	Gul Roz Khan	GPS No.2 Maneri Balu	GPS Haji Khel Maini
	74	Syed Yaqoob Shah	Syed Zufal Shah	GPS Kula Dhand	GPS Badgah Serai(G)
	75	Gohar Ali	Gulzar	GPS Awon Abad Yar Hussain	GPS Rushaka
	76	Shakrullah	Mohammad Ishaq	GPS Gulu Dheri	GPS Parwar Shal Banda(G)
	78	Taimur Alam	Mustafa Kamal	GPS No.2 Tordher	GPS Wiliyat Khel Jalhai
	79	Janas Khan	Nazar Khan	GPS Sikaduri	GPS Haji Abad Soddher
	80	Shaukat Ali	Sher Khan	GPS Miskin Abad Yar Hussain	GPS Beer Gull(G)
	81	Anwar Ul Haq	Amin Ul Haq	GPS Major Banda	GPS Gani chattru (G)
	82	Khalid	Said Nawab	GPS Parmoli	GPS Mir Shahi
	86	Amjad Hussain	Abdul Aziz	GPS No.1 Yar Hussain	GPS No.3 Yar Hussain
	88	Saraj Gul	Rahim Gul	GPS Paitai Banda	GPS Sarkoi Bafat(G)
	90	Fazal Sher	Fazal Ghani	GPS Naeem Shah Korona	GPS Nogram(G)
	92	Ijaz Ali	Sher Muhammad	GPS Gul Abad Yar Hussain	GPS Odeun Takail(G)
	93	Anwar Ali	Karim Ullah	GPS Parra Kalu Khan	GPS Check Sokail(G)
	94	Haqnowaz khan	Sher Nawaz Khan	GPS No.1 Kalu Khan	GPS Man Nour Abud Takail
	95	Farman Ghani	Shah Umar	GPS No.2 Jalsai	GPS Pelung Qadrai(G)
	96	Israr Muhammad	Munjawar	GPS No. 3 Shew	GPS Khusha Pernali
	99	Iftikhar Ahmsd	Sher Ghani	GPS Umar Dhock Lahor	GPS Ba.ia Gul Dhok Jalsai
	100	Ubsid-ur-Rehman.	Abdur Rehman	GPS No.1 Tordher	GPS No.2 Buzar
	101	Sardar Ali	Ghulam Nabi	GPS No.2 Bazargi	GPS Dhok Lahoran
	102	Ajmal Rizuz	Nawaz Khan	GPS Bachai Dagai	GPS No.1 Kotha
	103	Abdur kahim	Waris Khan	GPS No.1 Tano	GPS Balou Harvan
	110	Shabir Alam	Khurshed Alam	GPS Seri Daulat	GPS Seri Chaca (G)
	111	Hinayat'Ali Shah	H.dayat Ullah Shah	GPS KSK	GPS Sher Akram Banda (G)
	112	Ashfaq Ahmad	Badshah Gul	GPS Wisal Abad Jehangira	GPS No.2 Saqeer Korona Jalhai
	114	Kifayat Ullah	Rafi Ullah	GPS No.5 Jalbai	GPS No.2 Zarabi
	115	Navaid Ali	Jamshed	GPS Jangal Khel Kalu Khan	GPS Saunlai(G)
	116	Manzar Ali	Shamsul Haq	GPS Sang Bhatti	GPS No.4 Turandi
	118	Zahid Ahmad	Sher Dad	GPS Samad Depu Lahor	GPS Kundu Mungai Chai(G)

ATTESTED
A

ATTESTED
A

Terms and Conditions: -

1. They would be on probation period of one year extendable for another one year.
2. They will be governed by such Rules and regulations as may be issued from time to time by the Govt. of KPK.
3. Their services can be terminated at any time, in case of their performances are found un-satisfactory during probationary period, in case of mis-conduct; they shall be proceeded under the Rules framed from time to time.
4. Charge reports should be submitted to all concerned.
5. Their inter-se seniority on lower post will remain intact.
6. No TA/DA is allowed for joining their duties.
7. They will give an undertaking to be recorded in their service books to the effect that if any over payment is made to them in the light of this order will be recovered and if he is wrongly promoted, will be reversed.
8. They will have to take over charge within 15 days after the issue of this order; otherwise their promotion will be ceased automatically.

(NISAR MUHAMMAD)
District Education Officer,
(Male) Swabi

Endst: No. 11153-62 / Promotion of PSHT Dated: 29/8 /2019

Copy forwarded for information to the:

1. Director Elem. & Secy: Education Khyber Pakhtunkhwa Peshawar.
2. Deputy Commissioner Swabi.
3. District Accounts Officer Swabi.
4. District Monitoring Officer (IMU) Swabi.
5. All SDEOs District Swabi.
6. ADEO (M) Primary Local Office.
7. Superintendent (Primary) Local Office.
8. EMIS Section Local Office.
9. Officials Concerned.

District Education Officer
(Male) Swabi

29/8/19

CJC
ATTESTED



Annex - C 14 8

**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

Annex - B

No.SO(SM)E&SED/7-1/2019/Posting/Transfer/Policy of TC
Dated Peshawar the September 11, 2019

To

1. The Director, Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar.
2. The Director, Curriculum and Teachers Education
Khyber Pakhtunkhwa Abbottabad.
3. The Director, Provincial Institutes of Teachers Education, Peshawar.
4. The Director, Education Sector Reforms Unit, Elementary & Secondary
Education Department, Khyber Pakhtunkhwa.
5. All District Education Officers (Male & Female) in Khyber Pakhtunkhwa.

Subject:- **E-TRANSFER POLICY OF TEACHING CADRE IN E&SE DEPARTMENT
KHYBER PAKHTUNKHWA**

I am directed to refer to the subject noted above and to state that the Provincial Government has been pleased to implement the subject policy for posting/transfer of Teaching Cadre officers/officials in the Elementary and Secondary Education Khyber Pakhtunkhwa: -

- ** i. The introduction of e-Transfer for Teaching Cadre policy supersede all previous Posting/Transfer policies in the E&SE Department.
 - ii. Transfer on Complaint (Administrative Ground Transfer), Mutual, Inter District Transfer and transfer for Operationalization of Newly Established schools will be exempted from the present policy.
 - iii. Transfers shall be made annually in the month of March of the academic year.
 - iv. Transfer shall be made only against the vacant post.
 - ** v. The posts filled through NTS on school based recruitment process shall be declared non-transferable.
 - vi. The vacant positions will be uploaded by the District Education Officers for all teaching cadres in last week of February.
 - vii. The desirous employees shall apply through e-Transfer Application.
 - ** viii. Each Competent Authority shall constitute a Grievance Redressal Cell headed by a BPS-18 or above officer which will resolve the grievances and determine the merit position of the applicants with in a week positively.
 - ix. Each Competent Authority shall visit the Dash Board of e-Transfer app, check and verify all the particulars of the applicants till 25th of March.
 - x. At the end of March Transfer orders generated by e-Transfer App will be issued.
- S. M. J. / 11/09/2019*

ATTESTED
AE



(15) (9)

**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

- xi. Minimum tenure of 3 years on the present post at a school in plain area while 1.5 years in hard area is must for eligibility of e-posting/transfer.
- 2 The indicators as per from (A, B, C & D) will be considered for posting/transfer as per detail given below:

Form-A: Posting/Transfer of Teachers up to BPS 16 except SST (Total marks 80)

1. Distance of present school to the desired school (in KM) – 20 marks
 - a. Within 5 KM – 0 marks
 - b. Within 10 KM – 5 marks
 - c. Within 15 KM – 10 marks
 - d. Within 20 KM – 15 marks
 - e. Greater than 20 KM – 20 marks
2. Hard Area - 10 marks
 - a. Normal tenure (within 1.5 years) – 0 marks
 - b. Tenure at hard area (from 1.5 to 3 years) – 4 marks
 - c. Tenure at hard area (from 3 to 5 years) – 7 marks
 - d. Tenure at hard area (more than 5 years) – 10 marks.
3. STR (Total number of Students in the school / Total number of Teachers) – 10 marks (IMU data Source)
 - a. STR at present school is greater than the Desired school - 0 marks
 - b. STR at present and the desired school are equal or at the same level – 5 marks
 - c. STR at the present school is less than desired school – 10 marks
4. Chronic Disease – 10 marks
10 marks will only be awarded for chronic diseases (as per notified chronic diseases). A certificate in this regard will be required from Standing Medical Board.
5. Disability – 10 marks
10 marks will only be awarded only to those with Physical Disability. Proof required will be Special person CNIC + Standing Medical Board disability certificate
6. Domicile -10 marks
10 marks will be awarded to those when the desired school is in his/her district of domicile
7. Spouse – 10 marks
10 marks will be awarded to those whose spouse is posted in the district where the desired school is situated and the desired district is the domiciled district of the applicant.

Form-B: Posting/Transfers of SSTs (Total Marks – 100)

1. Distance of present school to the desired school (in KM) – 20 marks
 - a. Within 5 KM – 0 marks
 - b. Within 10 KM – 5 marks
 - c. Within 15 KM – 10 marks
 - d. Within 20 KM – 15 marks
 - e. Greater than 20 KM – 20 marks
2. Hard Area - 10 marks

ATTESTED
A



16 10

**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

- a. Normal tenure (within 1.5 years) – 0 marks
- b. Tenure at hard area (from 1.5 to 3 years) – 4 marks
- c. Tenure at hard area (from 3 to 5 years) – 7 marks
- d. Tenure at hard area (more than 5 years) – 10 marks
3. STR (Total Number of Students in Class 9 & 10 / Number of SST) - 10 marks (IMU data Source)
 - a. STR at present school is greater than the Desired school - 0 marks
 - b. STR at present and the desired school are equal or at the same level – 5 marks
 - c. STR at the present school is less than desired school – 10 marks
4. Chronic Disease – 10 marks
10 marks will only be awarded for chronic diseases (as per notified chronic diseases). A certificate in this regard will be required from Standing Medical Board.
5. Disability – 10 marks
6. 10 marks will only be awarded only to those with Physical Disability. Proof required will be Special person CNIC + Standing Medical Board disability certificate
7. Domicile -10 marks
10 marks will be awarded to those when the desired school is in his/her district of domicile
8. Spouse – 10 marks
10 marks will be awarded to those whose spouse is posted in the district where the desired school is situated and the desired district is the domiciled district of the applicant.
9. Annual SSC Result (of the subjects taught by the teacher) working in High/Higher Secondary Schools – 20 Marks
 - a. 90% or above – 20 marks
 - b. 80% to 90% - 15 marks
 - c. 70% to 80% - 10 marks
 - d. 60% to 70% - 5 marks
 - e. Below 60% - 0 marks.

OR

- For SSTs (General) working in Middle/Primary Schools – 20 Marks
Overall Students Attendance Rate Percentage as per IMU data
- a. 90% or above – 20 marks
 - b. 80% to 90% - 15 marks
 - c. 70% to 80% - 10 marks
 - d. 60% to 70% - 5 marks
 - e. Below 60% - 0 marks.

Form-C Posting/Transfers of Subject Specialists (SSS/SS) (Total Marks – 100)

1. Distance of present school to the desired school (in KM) – 20 marks
 - a. Within 5 KM – 0 marks
 - b. Within 10 KM – 5 marks
 - c. Within 15 KM – 10 marks
 - d. Within 20 KM – 15 marks

ATTESTED
J



(11)

**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

- c. Greater than 20 KM – 20 marks
2. Hard Area - 10 marks
 - a. Normal tenure (within 1.5 years) – 0 marks
 - b. Tenure at hard area (from 1.5 to 3 years) – 4 marks
 - c. Tenure at hard area (from 3 to 5 years) – 7 marks
 - d. Tenure at hard area (more than 5 years) – 10 marks
3. Number of Students in Class-11 & 12 in the relevant subject - 10 marks
 - a. Number of Students at present school is greater than the Desired school - 0 marks
 - b. Number of Students at present and the desired school are equal or at the same level – 5 marks
 - c. Number of Students at the present school is less than desired school – 10 marks
4. Chronic Disease – 10 marks
10 marks will only be awarded for chronic diseases (as per notified chronic diseases). A certificate in this regard will be required from Standing Medical Board.
5. Disability – 10 marks
6. 10 marks will only be awarded only to those with Physical Disability. Proof required will be Special person CNIC + Standing Medical Board disability certificate
7. Domicile -10 marks
10 marks will be awarded to those when the desired school is in his/her district of domicile
8. Spouse – 10 marks
10 marks will be awarded to those whose spouse is posted in the district where the desired school is situated and the desired district is the domiciled district of the applicant.
9. Annual HSSC Result (of the subjects taught by the teacher) – 20 Marks
 - a. 90% or above – 20 marks
 - b. 80% to 90% - 15 marks
 - c. 70% to 80% - 10 marks
 - d. 60% to 70% - 5 marks
 - e. Below 60% - 0 marks.

S. Afroz
11/09/2019

Form-D: Posting/Transfers of Principals/Head Masters of High/Higher Secondary Schools (Total Marks – 120)

1. Distance of present school to the desired school (in KM) – 20 marks
 - a. Within 5 KM – 0 marks
 - b. Within 10 KM – 5 marks
 - c. Within 15 KM – 10 marks
 - d. Within 20 KM – 15 marks
 - e. Greater than 20 KM – 20 marks
2. Hard Area - 10 marks
 - a. Normal tenure (within 1.5 years) – 0 marks
 - b. Tenure at hard area (from 1.5 to 3 years) – 4 marks
 - c. Tenure at hard area (from 3 to 5 years) – 7 marks
 - d. Tenure at hard area (more than 5 years) – 10 marks

ATTESTED



18 12

**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

3. STR (Total number of Students in the school / Total number of Teachers) - 10 marks (IMU data Source)
 - a. STR at present school is greater than the Desired school - 0 marks
 - b. STR at present and the desired school are equal or at the same level - 5 marks
 - c. STR at the present school is less than desired school - 10 marks
4. Chronic Disease - 10 marks
10 marks will only be awarded for chronic diseases (as per notified chronic diseases). A certificate in this regard will be required from Standing Medical Board.
5. Disability - 10 marks
6. 10 marks will only be awarded only to those with Physical Disability. Proof required will be Special person CNIC + Standing Medical Board disability certificate
7. Domicile - 10 marks
10 marks will be awarded to those when the desired school is in his/her district of domicile
8. Spouse - 10 marks
10 marks will be awarded to those whose spouse is posted in the district where the desired school is situated and the desired district is the domiciled district of the applicant.
9. Annual SSC & HSSC Result of the School - 20 Marks
 - a. 90% or above - 20 marks
 - b. 80% to 90% - 15 marks
 - c. 70% to 80% - 10 marks
 - d. 60% to 70% - 5 marks
 - e. Below 60% - 0 marks.
10. Overall Students Attendance Rate Percentage as IMU data - 20 Marks
 - a. 90% or above - 20 marks
 - b. 80% to 90% - 15 marks
 - c. 70% to 80% - 10 marks
 - d. 60% to 70% - 5 marks
 - e. Below 60% - 0 marks.

S. Rafiq
(SHAHID RAFIQ)
SECTION OFFICER (SCHOOLS MALE)

Endst: Even No. & Date:

Copy of the above is forwarded to the:-

1. PSO to Chief Minister Khyber Pakhtunkhwa Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa Establishment Department, Peshawar.
3. Deputy Secretary, (Estab), Establishment Department Government of Khyber Pakhtunkhwa, Peshawar.
4. All Section Officers, Elementary & Secondary Education Department Khyber Pakhtunkhwa Peshawar.
5. PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.

ATTESTED
[Signature]



98 13

**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

6. PS to Secretary, Elementary & Secondary Education Department Khyber Pakhtunkhwa Peshawar.
7. PA to Additional Secretary, Elementary & Secondary Education Department Khyber Pakhtunkhwa Peshawar.
8. PA to Chief Planning Officer, Elementary & Secondary Education Department Khyber Pakhtunkhwa.
9. PAs to Deputy Secretary Admn/ Legal, Elementary & Secondary Education Department Khyber Pakhtunkhwa Peshawar.
10. Office Record.

S. A. Afras
11/01/2019

SECTION OFFICER (SCHOOLS MALE)

CFU
ATTESTED

14

Amir C

**Before the worth Chief Secretary Government of Khyber
Pakhtunkhwa at civil secretariats Peshawar.**

**Subject; Depatmental Represnetation against E-Transfer Policy
and further adjustment/transfer order**

Respected Sir

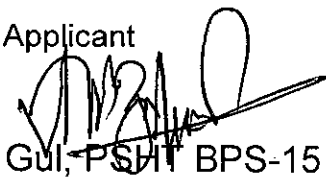
Most humbly submitted that the government of Khyber Pakhtunkhwa introduced E-transfer Policy of teaching cadre in Education Departments for the first time vide notification date 11.09.2019 (**hereinafter impugned**) but it is in conflict with the Khyber Pakhtunkhwa (Appointment, Deportation, Posting and Transfer of Teachers, Lecturer, Instructors and Doctors) Regulatory Act, 2011.

The impugned policy is also against the Appointment, Promotion and Transfer Rules (APT)-1989 further more it is also in conflict with the other existing laws, rules and regulations governing the subject matter hence liable to be withdrawn and according to the policy, the undersign is unable to avail the transfer / posting to nearer station having long length of service and near to retirement.

The said poicy also applied retrospectively against the applicant by posting/transferring him at fare flung area and the applicant being obedient servant also did complete the hard area tenure hence liable to be transferred/adjusted to GPS Bakar.

It is, therefore, humbly request that the impugned E-transfer Policy may kindly be declared illegal and to be withdrawn and the applicant may graciously be adjusted/transferred to GPS Bakar Swabi or any other nearest School.

Applicant



Saraj Gul, PSHI BPS-15

GPS Sara Kohi Bala Swabi.

(15)

Amber-D

**THE KHYBER PAKHTUNKHWA (APPOINTMENT, DEPUTATION,
POSTING AND TRANSFER OF TEACHERS, LECTURERS,
INSTRUCTORS AND DOCTORS) REGULATORY ACT, 2011.**

(KHYBER PAKHTUNKHWA ACT NO. XII OF 2011)

CONTENTS

PREAMBLE

SECTIONS

1. Short title, application and commencement.
2. Definitions.
3. Appointment, posting and transfer of primary school teachers.
4. Appointment of doctors, lecturers, instructors, subject specialists and teachers on adhoc basis.
5. Initial posting.
6. Deputation of Doctors.
7. Postgraduate Medical Education
8. Provisions relating to doctors apply to lecturers and instructors.
9. Act to over-ride other laws.
10. Jurisdiction barred.
11. Removal of difficulties.
12. Power to make rules.

ATTESTED

A

15

**THE KHYBER PAKHTUNKHWA (APPOINTMENT, DEPUTATION,
POSTING AND TRANSFER OF TEACHERS, LECTURERS,
INSTRUCTORS AND DOCTORS) REGULATORY ACT, 2011.**

(KHYBER PAKHTUNKHWA ACT NO. XII OF 2011)

[first published after having received the assent of the Governor of
the Khyber Pakhtunkhwa in the Gazette of Khyber Pakhtunkhwa
(Extraordinary), dated the 12th May, 2011].

**AN
ACT**

*to regulate by law appointments, postings and transfers of teachers serving in
primary, middle, secondary and higher secondary schools, lecturers in colleges and
instructors in technical institutions and doctors in health facilities.*

Preamble.---WHEREAS it is expedient to regulate by law appointments,
postings and transfers at local level, of teachers serving in primary, middle,
secondary and higher secondary schools, lecturers in colleges and instructors in
technical institutions and doctors in health facilities and to ensure the availability of
teachers in schools, lecturers in colleges and instructors in technical institutions and
the doctors in health facilities, and to regulate deputation of doctors abroad, and to
provide for matters connected therewith or ancillary thereto;

It is hereby enacted as follows:

1. Short title, application and commencement.---(1) This Act may be called
the Khyber Pakhtunkhwa (Appointment, Deputation, Posting and Transfer of
Teachers, Lecturers, Instructors and Doctors) Regulatory Act, 2011.

(2) It shall apply to teachers serving in primary, middle, secondary and
higher secondary schools, lecturers in colleges as well as commerce colleges and
instructors serving in technical institutions and doctors serving in the health facilities
in the Province of the Khyber Pakhtunkhwa.

(3) It shall come into force at once.

2. Definitions.---(1) In this Act, unless the context otherwise requires, the
following expressions shall have the meanings hereby respectively assigned to them
that is to say,-

(a) "Commission" means the Khyber Pakhtunkhwa Public
Service Commission;

ATTESTED



- (b) "doctor" means a doctor serving in the health facility;
- (c) "Government" means the Government of the Khyber Pakhtunkhwa;
- (d) "health facilities" mean all health facilities established and managed by the Government to provide medical facilities to general public;
- (e) "lecturer" and "instructor" respectively means a lecturer or an instructor serving in a Technical Institution as the case may be;
- (f) "prescribed" means prescribed by rules made under this Act;
- (g) "rules" mean the rules made under this Act;
- (h) "school" means school in the public sector including primary, middle, secondary school, higher secondary school or an institution of equivalent level imparting education through any system or medium of instruction in the public sector;
- (i) "teacher" means a teacher of primary, middle, secondary or higher secondary school; and
- (j) "technical institution" means and includes a Commerce College or Government College of Management Sciences or Technical Institute or Technical and Vocational Training Center or Skill Development Center in the public sector imparting technical education to students leading to the award of a degree or a diploma or a certificate.

(2) Words and phrases used in this Act, but not defined, shall have the same meanings as respectively assigned to them under the relevant federal law or provincial law or any other statutory order or rules for the time being in force.

3. **Appointment, posting and transfer of primary school teachers.**---(1) The vacancy of primary school teacher shall be filled in from the candidates belonging to the Union Council of their permanent residence mentioned in their Computerized National Identity Card and domicile, on merit and if no eligible candidate in that Union Council is available where the school is situate, such appointment shall be made on merit from amongst eligible candidates belonging to the adjacent Union Councils:

ATTESTED
A

18

Provided that on availability of a vacancy, a primary school teacher, appointed from adjacent Union Council, as referred to in this sub-section, shall be transferred against a vacant post in a school of the Union Council of his residence within a period of fifteen days.

(2) Upon marriage, the primary school teacher on request may be transferred to the school in the Union Council, where his spouse, ordinarily resides, subject to the availability of vacancy.

(3) The primary school teacher shall be transferred to other school within the Union Council on completion of tenure as may be prescribed subject to the policy of rationalization for maintaining certain student teachers ratio, if any.

(4) Government shall, within a period not exceeding one year of the commencement of this Act, make arrangement for posting of all the primary school teachers appointed prior to coming into force of this Act, to the schools of their respective Union Councils or adjacent Union Councils, as the case may be.

4. Appointment of doctors, lecturers, instructors, subject specialists and teachers on adhoc basis.---(1) Government may, through the competent authorities make adhoc appointment on merit against the vacant posts of doctors, lecturers, instructors, subject specialists and teachers, falling within the purview of Commission, in a district concerned from the domicile holders of that district for a period of one year or till the arrival of recommendees of Commission, whichever is earlier after fulfilling the pre-requisites of giving wide publicity in the press. On assumption of charge of post by recommendee of the Commission, the services of such ad hoc appointee shall stand automatically terminated:

Provided that if no suitable and eligible candidate is available in the district concerned for appointment, then the candidates belonging to the neighbouring districts shall be considered for appointment in the order of their merit.

(2) Save as the appointment made under proviso of this section, "ad hoc appointee" shall serve in the district of his domicile.

(3) The post of a doctor, lecturer, instructor, subject specialist or secondary school teacher who proceeds on training or long leave may be treated as vacant post for the purpose of contract or contingent appointment till the return of such employee from training or long leave and assumption of charge of the post:

Provided that the period of such training or long leave shall not be less than one year and no appointment on contract or contingent shall be made on the post which may fall vacant for a period less than one year.

ATTESTED

A

5. **Initial posting.**---(1) The doctors, the teachers and the lecturers and instructors upon their appointment shall be first posted in the periphery of the zone against whose quota they have been recruited, and they shall not be transferred for a period of at least three years.

(2) Upon expiry of the tenure as referred to in sub-section (1), transfer shall be made only upon the availability of substitute.

6. **Deputation of Doctors.**---(1) Government may allow deputation abroad for all categories of doctors only once in their entire service, for a period not exceeding three years.

(2) Deputation to "Foreign Service" within Pakistan shall be permissible only in respect of medical officers for a period not exceeding three years:

Provided that no further extension, on expiry of agreed tenure shall be given to the doctors who are already on deputation abroad or within Pakistan.

7. **Postgraduate Medical Education.**---(1) The Health Department, on the basis of objective need assessment and analysis, shall determine the intake number of Trainee Medical Officers (TMOs) in Postgraduate Medical Institute (PGMI) and Junior Registrars in Tertiary Care Hospitals every year. This stipulated number shall not exceed in any case.

(2) Any doctor selected or permitted for postgraduate medical training shall be treated on leave without pay and may be entitled only for stipend fixed by Government from time to time for such training.

(3) A doctor selected or permitted for postgraduate medical training shall provide surety bond prescribed by Government ensuring that upon completion of his studies for which he was initially selected, shall compulsorily serve for three years in the district of his domicile and in case of non-availability of a post in the district of domicile, he shall serve for three years in the rural area.

(4) For the purpose of sub-section (3), the doctor shall also provide guarantee of two government officers.

(5) In case of violation of sub-section (3), Government shall serve one month notice upon the doctor for resumption of duty, failing which the amount shall be recovered from him or from the guarantor, as the case may be.

8. **Provisions relating to doctors apply to lecturers and instructors.**---The provisions relating to doctors in section 7 of this Act shall *mutatis mutandis* apply to lecturers and instructors.

ATTESTED
A

20

9. **Act to over-ride other laws.**---The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force.

10. **Jurisdiction barred.**---Save as provided under the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), the Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986 and the Khyber Pakhtunkhwa Service Tribunal Act, 1974 (Khyber Pakhtunkhwa Act No. I of 1974), no order made or proceedings undertaken under this Act, or the rules made there under or any officer authorized by it shall be called into question in any Court, and no injunction shall be granted by any Court in respect of any decision made, or proceedings taken in pursuance or by any power conferred by or under this Act or the rules.

11. **Removal of difficulties.**---Government may, by order, provide for the removal of any difficulty which may arise in giving effect to the provisions of this Act.

12. **Power to make rules.**---Government may make rules for carrying out the purposes of this Act.

ATTN...

[Handwritten signature]

WAKALATNAMA

IN The Honorable 1st Service Tribunal

Siraj Gul

(Petitioner)
(Plaintiff)
(Applicant)
(Complainant)
(Decree Holder)

VERSUS

Govt of KP

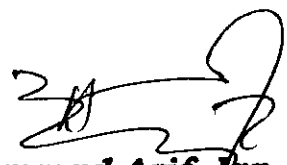
(Respondent)
(Defendant)
(Accused)
(Judgment Debtor)

Case _____

I/We, Applicant do hereby appoint and constitute **Muhammad Arif Jan Advocate** High Court, Peshawar, to appear. Plead, act, compromise, withdraw or refer to arbitration to me/ us as my/ our Counsel in the above noted matter, without any liability for their default and with the authority to engage/ appoint any other Advocate/ Counsel at my/ our matter.

Attested & Accepted

CLIENT/S



Muhammad Arif Jan
Advocate, High Court, Peshawar.
Office No. 6, 1st Floor
Pabbi Medical Centre, G.T. Road
Peshawar.
Mobile: 0333-2212213



Siraj Gul PSAT