

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Service Appeal No. 7945/2021

Date of institution 23.12.2021

Midrar Ahmad S/O Nazar Muhammad (Senior Drawing Master, GHSS
Beka, Swabi)

VERSUS

District Education Officer (Male), Swabi and one other.

ORDER
11.10.2022

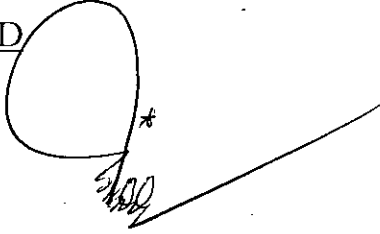
Appellant alongwith his counsel namely Mr. Daris Khan, Advocate, present. Mr. Fazle Khaliq, ADEO alongwith Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

2. Through the instant service appeal, the appellant has challenged the impugned adjustment order dated 12.11.2021, whereby the appellant upon his promotion as Senior Drawing Master, was transferred from Government Middle School Karnal Sher Kalay Swabi to Government Higher Secondary School Beka Swabi.

3. At the very outset, learned counsel for the appellant stated that the appellant would be satisfied, if commitment is made by the respondents that appellant shall be transferred to any nearest school on availability of vacant post of Senior Drawing Master. Representative of the respondents as well as Assistant Advocate General conceded the request so made by learned counsel for the appellant. Admittedly, the appellant is suffering from post Polio Paralysis right lower limb and it is expected that the respondents shall live up to the commitment so made by representative of the

respondents. With these observations, the appeal in hand is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
11.10.2022

A handwritten signature in black ink, featuring a large, stylized initial 'M' followed by a long horizontal stroke extending to the right.

(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)

A handwritten signature in black ink, consisting of a series of connected loops and a final horizontal stroke.

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

24th June, 2022

Counsel for the appellant present. Mr. Muhammad Riaz Khan, Painsdakhel, Assistant AG for respondents present.

Respondents have submitted written reply/comments which are placed on file and copy of the same is handed over to learned counsel for the appellant. To come up for arguments on 01.09.2022 before D.B.

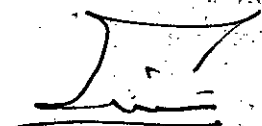


(Kalim Arshad Khan)
Chairman.

01.09.2022

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

Learned Member (Judicial) Mrs. Rozina Rehman is on leave, therefore, arguments could not be heard. Adjourned. To come up for arguments on 11.10.2022 before the D.B.



(Salah-Ud-Din)
Member(J).


24.05.2022

Mr. Daris Khan, Advocate for the appellant present. Preliminary arguments heard.

Service appeal was heard at preliminary hearing stage, learned counsel for the appellant argued that the appellant is working as Drawing Master in the respondent department since 2004 and he is aggrieved of the impugned order dated 12.11.2021 when on promotion from Drawing Master to Senior Drawing Master, he was transferred from GMS KSK to GHSS Beka. The appellant is a special person who is suffering from Post Polio Paralysis right lower limb as per opinion of the Standing Medical Board dated 21.07.2004. The new station of posting is far away i.e. 41 to 45 kilometers and on the face of his health problem, the appellant preferred departmental appeal against the impugned order on 13.11.2021 which was not responded/decided within the statutory period hence the instant service appeal was filed on 23.12.2021. It was further contended that in view of the genuine health issue duly certified by the Standing Medical Board at the time of his entry into service, he cannot travel far flung area for duty and be retained or adjusted at the nearest duty station.

Points raised need consideration. The appeal is admitted to regular hearing, subject to all just and legal objections. 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. To come up for reply/comments before the S.B on 24.06.2022. Alongwith the appeal there is an application for suspension of impugned order dated 12.11.2021 to the extent of appellant's adjustment. Notice of the said application be also sent to the respondents for written reply/comments.

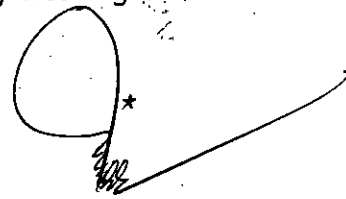
Rs-400/-
Appellant Deposited
Security & Process Fee
H. J. Ikh
31/5/22


(Mian Muhammad)
Member(E)

25.01.2022

Clerk of counsel for the appellant present.

Former requests for adjournment due to general strike of the bar. Adjourned. To come up for reply/preliminary hearing on 24.02.2022 before S.B.



(Mian Muhammad)
Member(E)

24.02.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 24.05.2022 for the same as before.



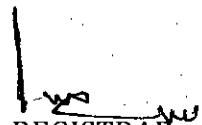


Reader.

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 7945/2021 _____


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	29/12/2021	<p>The appeal of Mr. Midrar Ahmad resubmitted today by Mr. Daras Khan 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-		<p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put up there on <u>14/01/22</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	14.01.2022	<p>Learned counsel for the appellant present.</p> <p>Being Chairman of Departmental Selection Committee, I am busy in Administrative work regarding recruitment, therefore, to come up for preliminary hearing on 25.01.2022 before the S.B.</p> <p style="text-align: right;"> (Salah-Ud-Din) Member (J)</p>

The appeal of Mr. Midrar Ahmad S/O Nazar Muhammad, SDM GHSS Beka, District Swat received today i.e. on 23.12.2021 is incomplete on the following score which is returned to the counsel for the appellants for completion and resubmission within 15 days.

1. Checklist is not attached with the appeal.
2. Annexures of the appeal may be attested.
3. Certificate be given to the effect that appellants has not been filed any service appeal earlier on the subject matter before this Tribunal.

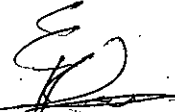
No. 2574 /S.T,

Dt. 24/12 /2021


REGISTRAR,
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Daris Khan Adv. Pesh.

Note Resubmitted after completion and removing
the objections concerned.


Daris Khan Adv


KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
CHECK LIST

Case Title: M7-Michar v/s DEO (male)

S#	CONTENTS	YES	NO
1	This Appeal has been presented by: <u>Darab Khan Advocate</u>	✓	
2	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	✓	
3	Whether appeal is within time?	✓	
4	Whether the enactment under which the appeal is filed mentioned?	✓	
5	Whether the enactment under which the appeal is filed is correct?	✓	
6	Whether affidavit is appended?	✓	
7	Whether affidavit is duly attested by competent Oath Commissioner?	✓	
8	Whether appeal/annexures are properly paged?	✓	
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?	x	✓
10	Whether annexures are legible?	✓	
11	Whether annexures are attested?	✓	
12	Whether copies of annexures are readable/clear?	✓	
13	Whether copy of appeal is delivered to AG/DAG?	✓	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	✓	
15	Whether numbers of referred cases given are correct?	✓	
16	Whether appeal contains cutting/overwriting?	x	✓
17	Whether list of books has been provided at the end of the appeal?	✓	
18	Whether case relate to this court?	✓	
19	Whether requisite number of spare copies attached?	✓	
20	Whether complete spare copy is filed in separate file cover?	✓	
21	Whether addresses of parties given are complete?	✓	
22	Whether index filed?	✓	
23	Whether index is correct?	✓	
24	Whether Security and Process Fee deposited? On _____	✓	
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____	✓	
26	Whether copies of comments/reply/rejoinder submitted? On _____	✓	
27	Whether copies of comments/reply/rejoinder provided to opposite party? On _____	✓	

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name: Darab Khan Adv.

Signature: 

Dated: _____

BEFORE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No. 7945 of 2021

Midrar Ahmad.....Appellant

VERSUS

D.E.O. (Male), Swabi and another.....Respondents

INDEX

<i>S.N</i>	<i>Description of Documents</i>	<i>Annexure</i>	<i>Pages</i>
1	Memo of appeal.		1-2
2	Affidavit.		3
3	Application for suspension of adjustment order.		4
4	Affidavit.		5
5	Addresses of the parties		6
6	Copy of the Adjustment order dated 12.11.2021	A	7-8
7	Copy of representation	B	9-11
8	Copies of opinion and medical report	C	12-13
9	Wakalatnama		14


Appellant

Through:


Daris Khan
Advocate, High Court

D

BEFORE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 8150

Dated 23/12/2021

Service Appeal No. 7915 of 2021

Midrar Ahmad S/O Nazar Muhammad
(Senior Drawing Master, GHSS Beka, Swabi).....Appellant
VERSUS

1. District Education Officer (Male), Swabi.
2. Director E&SE Khyber Pakhtunkhwa, Peshawar.....Respondents

APPEAL UNDER SECTION 4 OF KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT
1974 AGAINST THE IMPUGNED
ADJUSTMENT ORDER DATED 12.11.2021 OF
RESPONDENT NO.1 WHEREBY THE
APPELLANT WAS ADJUSTED AT
GOVERNMENT HIGH SECONDARY SCHOOL
BEKA SWABI FOR NO LEGAL REASON.

Respectfully Sheweth:

1. That appellant was appointed as Drawing Master vide order dated 31.03.2004 on disabled Quota through court order.
2. That the appellant rendered services regularly punctually and upto the mark.
3. That consequent upon the notification dated 29.10.2021 issued by respondent No.2 , the appellant was promoted to Senior Drawing Master vide adjustment order dated 12.11.2021 and adjusted at Government High Secondary School Beka, Swabi. (Copy of the Adjustment order dated 12.11.2021 Annexure A)

Filed to-day

Registrar
23/12/2021

Re-submitted to -day
and filed.

Registrar
29/12/2021

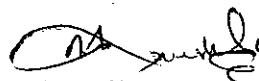
- 2
4. That on 13.11.2021, appellant submitted representation before the authority which met dead response. Hence this appeal on following grounds amongst others; (Copy of representation is annexure B).

GROUND:

- A. That the impugned order to the extent of adjustment of appellant at GHSS Beka is against law, rules and policy.
- B. That Medical Board opined that the appellant is suffering from the Post Polio Paralysis right lower limb and due to the same reason, he was appointed on disable quota, therefore adjusting him at School at a distance of about 45 Kilometer from the residence of the appellant is trail of his patience and courage and also against the natural justice. (Copies of opinion and medical report are annexure C)
- C. That the appellant filed application to respondents prior the issuance of the adjustment order, to be posted at nearest station due to his disability and illness but that request was also not honoured.
- D. That the impugned order is based on favoritism and malafide and issued in violation of law, rule and policy, being union council based opportunity.

It is therefore humbly prayed that on acceptance of this appeal the impugned adjustment order dated 12.11.2021 of adjustment of the appellant at GHSS Beka Swabi may kindly be set aside and the appellant may be retained at same station or the appellant be posted at other vacant post at nearest station.

Any other relief which this Hon'ble Court deems appropriate in the circumstances of the case may also be granted in favour of appellant.

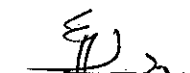

Appellant

Through:


Daris Khan
Advocate, High Court

Certificate

It is certified that no such appeal has earlier been filed by appellant before this honorable Tribunal.


Advocate

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BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.

S.A.No. _____ 2021

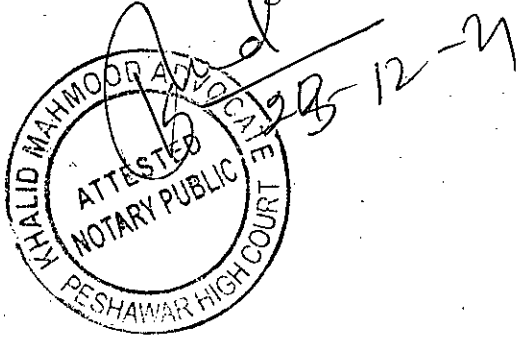
Midrar AhmadAppellant

Versus

District Education Officer Swabi and others.....Respondents

AFFIDAVIT

I, Midrar Ahmad son of Nazar Muhammad (Senior Drawing Master, GHSS Beka, Swabi) R/o Mohallah Ahmad Khel, Sheikh Jana, Tehsil and District Swabi do hereby affirm and declare on oath that the contents of the 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
CNIC No.16202-0976396-5

C

(14)

BEFORE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No. _____ of 2021

Midrar Ahmad.....Appellant

VERSUS

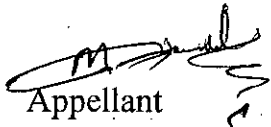
D.E.O. (Male), Swabi and another.....Respondents

APPLICATION FOR SUSPENSION OF
IMPUGNED ORDER TO THE EXTENT OF
APPELLANT'S ADJUSTMENT DATED
12.11.2021.

Respectfully Sheweth;

- 1) That the above titled appeal is being filed before this Hon'ble Tribunal in which no date has yet been fixed.
- 2) That grounds of appeal may be read as part and parcel of this application.
- 3) That a prima facie an arguable case exists in favour of appellant and is sanguine about its success.
- 4) That balance of convenience lies in favour of appellant/ petitioner.
- 5) That if operation of the impugned adjustment order is not suspended, appellant/ petitioner will suffer irreparable loss.

It is, therefore, prayed that on acceptance of this application, impugned adjustment order dated 12.11.2021 to the extent of appellant may kindly be suspended till final decision of instant appeal.


Appellant

Through:

Daris Khan
Advocate, High Court



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BEFORE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR

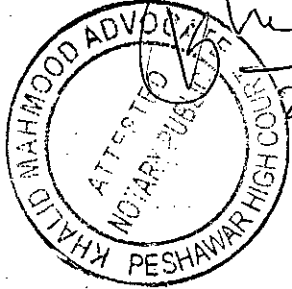
Service Appeal No. _____ of 2021

Midrar Ahmad.....Appellant
VERSUS

D.E.O. (Male), Swabi and another.....Respondents

AFFIDAVIT

I, Midrar Ahmad S/O Nazar Muhammad (Senior Drawing Master, GHSS Beka, Swabi) do hereby affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.




Deponent

(b)

BEFORE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA, PESHAWAR

Service Appeal No. _____ of 2021

Midrar Ahmad.....Appellant
VERSUS

D.E.O. (Male), Swabi and another.....Respondents

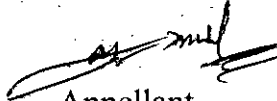
ADDRESSES OF THE PARTIES

APPELLANT:


Midrar Ahmad S/O Nazar Muhammad
(Senior Drawing Master, GHSS Beka, Swabi)

RESPONDENTS:

1. District Education Officer (Male), Swabi.
2. Director E&SE Khyber Pakhtunkhwa, Peshawar


Appellant

Through:


Daris Khan
Advocate, High Court

7



DISTRICT EDUCATION OFFICE (MALE) SWABI

(Office Phone & Fax No 0938280239, emis_swabi@yahoo.com)



ADJUSTMENT ORDER

Consequent upon the Notification Issued by the Director E&SE Khyber Pakhtunkhwa Peshawar under Endst. No. 5313-18/File No.6/ Promotion Senior Teachers (BPS-16) Dated Peshawar the 29-10-2021, the following male *CT, DM, AT & TT* are hereby promoted to *Senior CT, Senior DM, Senior AT & Senior TT* and adjusted at the schools noted against each in BPS-16 (Rs. 18910-1520-64510) plus usual allowances as admissible under the rules on regular basis under the existing policy of the provincial Govt. on the terms and conditions given below with immediate effect.

S.No	Name of Teacher & Designation	Present place of posting	Name of school where adjusted	Remarks
ITEM No. 1		CT TO S.CT		
1)	Fida Ullah CT	GMS Urmal Dheri	GCMHSS Marghuz	AVP
2)	Shad Hussain CT	GMS Nabi	GHSS Thand Kol	AVP
3)	Muzammil Khan CT	GMS Borl (G)	GHSS Naro Banda (G)	AVP
4)	Nasrul Wahab CT	GMS Jalsal	GHSS Thand Kol	AVP
5)	Muhammad Ajmal CT	GMS Dewal Gharhi	GHS Bada (G)	AVP
6)	Haider Ali CT	GMS Adina Khurd	GHSS Ayub Khan Killi	AVP
7)	Liaqat Ali CT	GHS 1 Dagai	GHS Serai Swabi	AVP
8)	Shah Jehan Zeb CT	GMS Jalbal Shamali	GHS Swabi	AVP
9)	Mukhtar Ahmad CT	GMS Beka	GCMHSS Marghuz	AVP
10)	Rahmat Ali CT	GHS Goharabad Ism	GHSS Ismalla	AVP
11)	Muslim Khan CT	GHS 1 Dagai	GHS Swabi	AVP
12)	Mehdi Zaman CT	GHS 1 Dagai	GHSS Sheikh Jana	AVP
13)	Subhan Ullah CT	GMS Naik Naam	GHS Baja	AVP
14)	Muhammad Islam CT	GMS Mathra Dagai	GSBASHS Shewa	AVP
15)	Niamat Ullah CT	GHSS Tarakai	GHSS Mansabdar	AVP
16)	Zubair Muhammad CT	GHS Panjman	GHS Panjman	AVP
17)	Saadat Ali CT	GMS Muhib banda	GHS Swabi	AVP
18)	Shah Jehan CT	GHSS K.Khan	GHSS Kalu Khan	AVP
19)	Azhar Ul Haq CT	GMS Lyran (G)	GHS Kot Gabal (G)	AVP
20)	Muhammad Israr CT	GMS Kotha	GHSS Kalabat	AVP
21)	Ishtihar Ali Shah CT	GHSS Doblan	GHSS Doblan	AVP
22)	Syed Mukamil Shah CT	GMS Nazar banda	GHS Yousafi	AVP
23)	Fazal Hadi CT	GHSS Panj Pir	GHS Swabi	AVP
24)	Wazir Muhammad CT	GHS Malak abad	GHS Malak Abad	AVP
25)	Muhammad Ashfaq CT	GMS Jehingera	GHSS Jehangira	AVP
26)	Muhammad Ayaz CT	GHS.1 Yar Hussain	GHS Sher Dara	AVP
27)	Ashraf Ali CT	GHSS Panj Pir	GHS Dodher	AVP
28)	Usman Khan CT	GMS Shalmani	GHSS Utla (G)	AVP
29)	Zulfiqar Ali CT	GHS.2 Maneri Payan	GHS.2 Maneri Payan	AVP
30)	Faiz Muhammad CT	GHS Jagan Nath	GHS Jagan Nath	AVP
31)	Nawab Ali CT	GHS.2 Maneri Payan	GHS.2 Maneri Payan	AVP
32)	Lal Faqir CT	GMS Gharib Abad	GHSS Kalabat	AVP
33)	Husan Taj CT	GMS Mathra	GCMHSS Marghuz	AVP
34)	Zahir Muhammad CT	GHSS Maneri Payan	GHS Batakara	AVP
35)	Ajmal Khan CT	GHS No.1 Y.Hussain	GHS Qadra (G)	AVP

ATTESTED

4

ITEM No.2		DM to SDM		
1.	Said Rafiq Shah DM	GMS Rafiq Abad	GHS No.1 Yar Husain	AVP
2.	Muhammad Inam DM	GMS Bakar	GHS Baja	AVP
3.	Raham Zaib DM	GMS Musa Banda	GHS Kotha	AVP
4.	Sardar Said DM	GMS Kalu Dher	GHSS Jalsai	AVP
5.	Midrar Ahmad DM	GMS KSK	GHSS Beka	AVP
ITEM No.3		AT to S.AT		
1	Muhammad Ilyas AT	GHS Shahdad Killi	GHS Ayub Khan Killi	AVP
2	Fazal Raziq AT	GHS Sard Chena	GHSS Tarakai	AVP
3	Munir Khan AT	GMS Urmal Dheri	GHS Marghuz	AVP
4	Hazrat Hussain AT	GMS KSK	GHS Asota Sharif	AVP
5	Rahman Ghani AT	GMS Bori	GHS Maini	AVP
ITEM No.4		TT to S.TT		
1	Nisar Ahmad	GMS Wisal Abad	GHSS Saleem Khan	AVP
2	Abdur Rahman	GHSS Kalabat	GHSS Kalabat	AVP
3	Irshad Ullah	GMS Jalsai	GHS Zarobi Swabi	AVP

TERMS & CONDITIONS:


- i. They would be on probation for a period of one year extendable for another one year.
- ii. They will be governed by such rules and regulations as may be issued from time to time by the Govt.
- iii. Their services can be terminated at any time in case of their performance is found unsatisfactory during probationary period. In-case of misconduct they shall be preceded under the rules framed from time to time.
- iv. Charge reports should be submitted to all concerned.
- v. No TA/DA is allowed to anyone for joining their duties.
- vi. Their inter-se-seniority on lower post will remain intact.
- vii. They will give an undertaking to be recorded in their service book to the effect that if any over payment made to them in the light of this order will be recovered and if they are wrongly promoted they will be reversed.
- viii. Before handing over charge once again their documents may be checked, if they have not the required relevant qualification as per rule, they may not be handed over charge of the post.

(ZAHID MUHAMMAD)
DISTRICT EDUCATION OFFICER
(MALE) SWABI

Endst. No. 10575-6 Dated 12-11-2021

Copy of the above is forwarded to the:

- 1) Director E&SE Khyber Pakhtunkhwa Peshawar.
- 2) District Accounts Officer Swabi.
- 3) District Monitoring Officer Swabi.
- 4) Principal/Head Master concerned school.
- 5) ADEO (Estab)/B&AO Local Office.
- 6) Teacher concerned.


12/11/21
DISTRICT EDUCATION OFFICER
(MALE) SWABI

ATTESTED

بھنور جناب ڈسٹرکٹ ایجوکیشن آفیسر صاحب ضلع صوابی

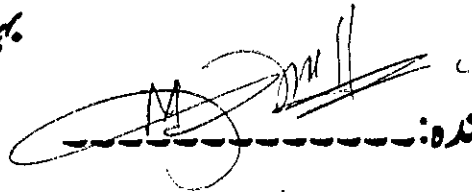
عنوان: درخواست برائے پروموشن ٹو S.DM

جناب عالی!

مودبانہ گزارش کی جاتی ہے۔ کہ میں نے سینئر ڈرائنگ ماسٹر کے لئے فائل جمع کی ہے۔ جس کی ڈی پی سی بھی ہوئی ہے۔ میں آپ صاحبان کے نوٹس میں یہ لانا چاہتا ہوں۔ کہ گورنمنٹ ہائی سکول نمبر 1 یار حسین میں متعلقہ سینئر ڈی ایم جناب گوہر علی صاحب SST کو پروموشن ہونے والا ہے۔ میں چونکہ جسمانی طور پر معذور ہوں۔ معذوری کی وجہ سے مجھے دور آنے جانے میں زیادہ تکلیف ہوتی ہے۔

لہذا آپ صاحبان مہربانی کر کے میری معذوری کو مد نظر رکھتے ہوئے مجھے گورنمنٹ ہائی سکول نمبر 1 یار حسین میں ایڈجسٹ کرنے کا حکم صادر فرما کر مشکور فرمائیں۔

بہت شکر یہ



العارض

دستخط درخواست دہندہ:

آپ کا تابع فرمان: مدرار احمد (ڈی ایم) گورنمنٹ مڈل سکول کرنل شیر کلمے صوابی

مورخہ: 07/09/2021

رابطہ نمبر: 0345-8345486



ATTESTED

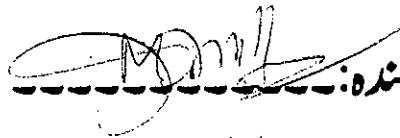
بھنور جناب ڈسٹرکٹ ایجوکیشن آفیسر صاحب ضلع صوابی

عنوان: اپیل

جناب عالی!

مودبانہ گزارش کی جاتی ہے۔ کہ میرا بطور سینئر ڈرائنگ ماسٹر 12 نومبر 2021ء گورنمنٹ ہائر سیکنڈری سکول بیکا میں تقرری ہوئی ہے۔ جو کہ 45 کلومیٹر فاصلہ ہے۔ حالانکہ میں نے ماہ اگست میں درخواست جمع کی تھی۔ اور معذوری کی وجہ سے نزدیک (گورنمنٹ ہائی سکول نمبر 1 یار حسین) میں ایڈجسٹ کرنے کا التجا کیا تھا۔ لیکن اس کے باوجود مجھے دور سٹیشن میں ایڈجسٹ کیا۔ لہذا درخواست پر نظر ثانی فرما کر مشکور فرمائیں۔

بہت شکریہ



العارض

آپ کا تابع فرمان: مدرار احمد (ڈی ایم) گورنمنٹ مڈل سکول کرنل شیر کلے صوابی

مورخہ: 13/11/2021

رابطہ: 0345-8345486


ATTESTED

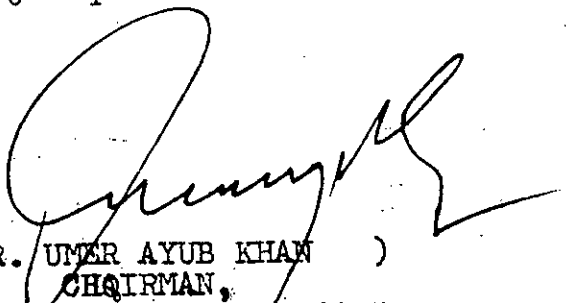
(12)

OFFICE OF THE CHAIRMAN, STANDING MEDICAL BOARD/MEDICAL SUPERINTENDENT
POLICE/SERVICES, HOSPITAL, PESHAWAR.


The Standing Medical Board comprising the following members assembled in the office of the Medical Supdt: Police/Services, Hospital, Peshawar to examine, Mr. ~~Midwar~~ Ahmad S/O Nazar Muhammad.


The Standing Medical Board is of the opinion that he is suffering from Post Polio Paralysis right lower limb. He is disabled for 2% Govt: job quota.

STATION PESHAWAR:-
DATED:- 21/07/2004.


(DR. UMER AYUB KHAN)
CHAIRMAN,
STANDING MEDICAL BOARD
MEDICAL SUPERINTENDENT
POLICE/SERVICES, HOSPITAL,
PESHAWAR.


OPHTHALMOLOGIST
POLICE SERVICES, HOSPITAL,
PESHAWAR... MEMBER.....


PHYSICIAN
POLICE SERVICES, HOSPITAL,
PESHAWAR... MEMBER.....


SECRETARY
STANDING MEDICAL BOARD
POLICE SERVICES, HOSPITAL,
PESHAWAR.

~~ATTESTED~~



Consultant Neuro Surgeon
Dr. Sajid Khan

MBBS, MCPS, FCPS (Neurosurgery)
 Senior Registrar
 Prime Teaching Hospital / Peshawar Medical College Peshawar



Name M. Idris Ahmed

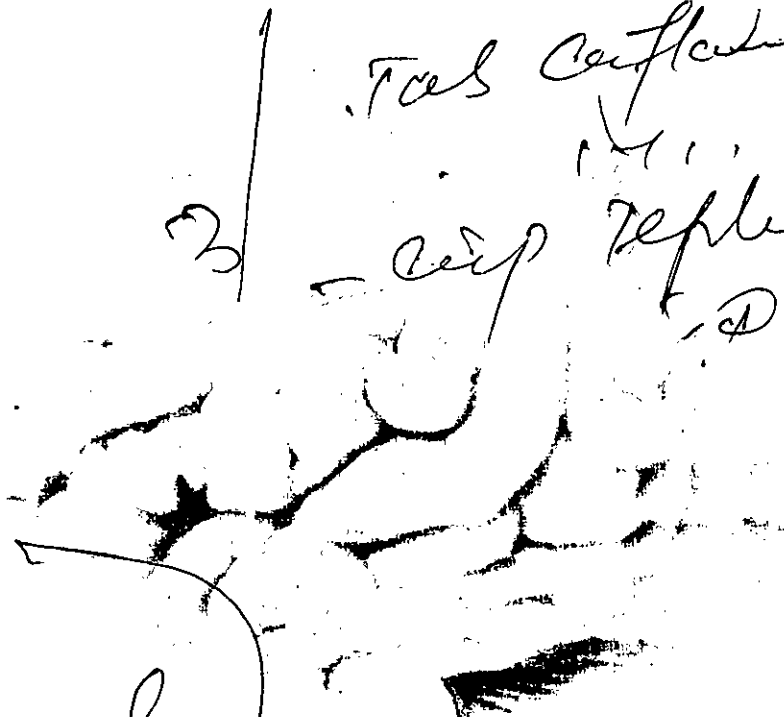
Date 10 OCT 2021

Neckache,

- Tal Myomet,

- Tal Cervical

- Cerv Reflector



Ade,
 MRI cervical spine
 C5-C6 D10

~~ATTESTED~~

نوردرجن ڈاکٹر ساجد خان



S No:

143

Wakalat Nama Ticket of

PBA

RS. 50/-
FIFTY RUPEES

لکھنؤ - سرور ایجنسی کے لئے درخواست

2 مئی

بنام

صدر ایجنسی

موزعہ

مقدمہ

دعویٰ

جرم

S.A No.

باعث تحریر آئیکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دکن کارروائی متعلقہ
آن مقام کے لئے دارس جہاں الدین سے ASC

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی مکمل کارروائی کا کامل اختیار دیا گیا۔ نیز
دکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ بر حلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی براندگی اور مندرجہ
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیار حاصل ہوں گے اور اس کا سامنے
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جان التوائے مقدمہ کے سبب سے دہونگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سند ہے۔

الرقوم 13 12 20

واہ الب

کے لئے منظور ہے۔

کلیئر

بمقام

Accept

By

Darish Khan

Adv

ASC

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No.7945/2021

Midrar Ahmad S/O Nazar Muhammad Senior Drawing Master (SDM) BPS-16, GHSS

Beka District Swabi..... **Appellant**


VERSUS

1. District Education Officer (Male) Swabi.

2. Director E&SE, Khyber Pakhtunkhwa Peshawar,**Respondents**

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 13.6.2022

DISTRICT EDUCATION OFFICER

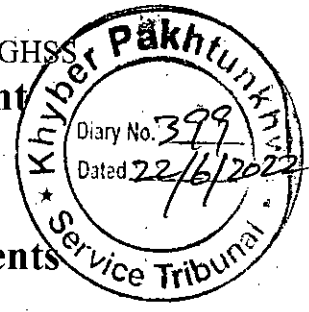
(MALE) SWABI

**Distt: Education Officer
(Male) Swabi**

0301-8351107

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

Service Appeal No.7945/2021
Midrar Ahmad S/O Nazar Muhammad Senior Drawing Master (SDM) BPS-16, GHSS
Beka District Swabi..... **Appellant**



VERSUS

1. District Education Officer (Male) Swabi.
2. Director E&SE, Khyber Pakhtunkhwa Peshawar, **Respondents**

PARA WISE COMMENTS ON BEHALF OF THE RESPONDENTS No. 1 & 2.

Respectfully Sheweth,

PRELIMINARY OBJECTIONS.

1. That the appellant did not avail the remedy of departmental appeal against the impugned adjustment order, hence the appeal in the Service Tribunal is not maintainable.
2. That the appellant has no vested right to continue, to hold a particular post, at a particular place, thus is liable to be adjusted/transferred any where in exigencies of service; hence the appeal is not maintainable. .
3. **That the appellant claims his adjustment order after promotion from DM to SDM at the same station i.e. the post against which the appellant wants to be retained is of DM (BPS-15), while the appellant is promoted to SDM (BPS-16). A person earning perks and privileges of BPS-16 can not be legally entitled to adjust/serve against a post in the lower scale. Hence the appeal is not maintainable.**
4. That the appellant has not made any one as private respondent from whom adjustment, he is aggrieved, hence the appeal is not maintainable.
5. That the service appeal is wrong, baseless and not maintainable, it shows no strong cause to be taken for adjudication, therefore, the same service appeal is liable to be rejected/ dismissed.
6. That the service appeal is unjustifiable, baseless, false, frivolous and vexations. Hence the same is liable to be dismissed with the order of special compensatory cost in favour of respondents.
7. That no constitutional or legal right of the appellant has been violated, therefore, the appellant is not entitled to invoke the constitutional jurisdiction of this honourable Service Tribunal under Article 212 of the constitution of Pakistan.
8. That the appellant has not come to the Court/Tribunal with clean hands.
9. That the appellant has concealed the material facts from this Honourable Tribunal.
10. That the appeal is bad for misjoinder and non-joinder of the necessary party.
11. That the appellant has filed the instant appeal just to pressurize the respondents.
12. That the appellant has no cause of action to file the instant appeal.

Facts:

1. That the para relates to the initial appointment of the appellant against Drawing Master (DM) BPS-15 post under 02% disable quota. It is pertinent to mention that as per section 10 (5) of the Khyber Pakhtunkhwa Civil Servants (Appointment,

2

promotion and Transfer) rules, 1989, which is reproduced as ,” Notwithstanding any thing contained in any rule for the time being in force, two percent of all posts in each basic pay scale to be filled in by initial recruitment shall be reserved for disabled candidates and ten percent of all posts meant for initial recruitment shall be reserved for female candidates:

Explanation:- For the purposes of reservation under the sub rule “disability” does not include such disability which hampers in the smooth performance of the duties required of a disabled candidate.”

2. That it is obligatory for each and every Civil Servant to discharge his duties up to the entire satisfaction of his superiors and up to the best of his capabilities, because he is paid for his job, failing which is liable to be treated under E & D rules 2011.
3. That all the five Drawing Masters including the appellant were promoted from DM to SDM as per their seniority order and were adjusted in the schools noted against each accordingly.
4. Incorrect, hence denied. The appellant did not submit any representation before the authority. The appellant did not avail the remedy of departmental appeal against the impugned adjustment order. So the appeal in the tribunal is not maintainable. Same is reported in PLJ 1991 Tr.C (Service) 153:1992 PLC(CS) 666, 1994 PLC (CS) 1262, 1994 PLC (CS) 606.

The letter he claims a departmental appeal is neither submitted to the appellate authority nor any other authority. This claim of the appellant is denied outright. It is his self planted story just to create his right, which has no legal backing. The stance of the appellant is conjectural, contemptuous and ludicrous. He just wants to lead the department by its nose. He has not made anyone as private respondent from whom adjustment, he is aggrieved. He is throwing arrows in the dark. He is talking argy bargy. He is not an aggrieved person at all, because as in his prayer, he wants to earn perks and privileges of BPS-16 and to work against BPS-15, which has no legal backing. He has no cause of action to file the instant appeal and the appeal in hand is liable to be dismissed inter alia amongst the following grounds.

Grounds:

- A. Incorrect, hence denied. The five vacant posts of SDM BPS-16 were filled in accordingly. The appellant was at the lowest in the seniority number. He was promoted at the last fifth position. There is no other post of SDM BPS-16 lying vacant anywhere in the District Swabi. That the appellant has no vested right to continue, to hold a particular post at a particular place, thus is liable to be adjusted anywhere in exigencies of service. The adjustment is not made on the whims and desires of the appellant. Hence the adjustment of the appellant at GHSS, Beka is in accordance with law, rules and policy.
- B. Incorrect, hence denied. The distance between his home and duty station is not more than 20 kilometers. It is not initial recruitment but promotion. There is no quota of disable persons reserved in promotion. If there was SDM post vacant nearer to his home, he would have to be hinted out. Civil servant was liable to be transferred/ adjusted anywhere in exigencies of service. Reliance is placed on 1999 SCMR 2155 (c), 1999 PLC 132 (c). Thus the appellant is treated as per law, rule and policy. The stance of the appellant is conjectural, contemptuous and ludicrous.
- C. Incorrect, hence denied. He did not file any application prior to the issuance of the adjustment order. He annexed these letters without submitting these to the authority. The stance of the appellant is rejected / denied outright. Furthermore, there is not existed any other nearer vacant post of SDM BPS-16.

D. Incorrect, hence denied. The question of favoritism, malafide and violation of law, rules and policy is out of question. SDM BPS-16 post is a district cadre post. Only PST posts are Union Council based posts.

That the respondents may seek permission to raise/argue additional points/grounds on the day of hearing this case

In view of the above stated submissions, it is earnestly requested that the appeal may very graciously be dismissed with special compensatory cost in favour of the department.

[Handwritten Signature]

DIRECTOR Education
E&SE, KHYBER PAKHTUNKHWA
PESHAWAR
RESPNDENT NO.2

[Handwritten Signature] 13.6.22

DISTRCT EDUCATION OFFICER
(MALE) SWABI
RESPONDENT NO.1
Distt. Education Officer
(Male) Swabi

Affidavit

I do hereby solemnly affirm and declare on oath that the contents of the comments submitted by respondents are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.

[Handwritten Signature] 13.6.22

DISTRICT EDUCATION OFFICER
(MALE) SWABI

Distt: Education Officer
(Male) Swabi

