

11.03.2020

None present on behalf of the petitioner. Mr. Kabirullah Khattak, Additional AG alongwith M/S Fazle Subhan, Section Officer on behalf of respondent No. 1 and Irfanullah, Assistant on behalf of respondent No. 2 present. Representative of respondent No. 1 submitted implementation report dated 08.01.2020 which is placed on record. Therefore, the present execution petition is disposed off. However, if the petitioner is having some grievance he is at liberty to file application for restoration of the same. File be consigned to the record room.




  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

## FORM-A

## FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. \_\_\_\_\_

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1.	2/1/2020	<p>The COC application of Latif-ur-Rehman submitted today by Shahid Mehmood Khan, Advocate may be entered in the relevant Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR -</p>
2.	06/01/20	<p>This COC application be put up before S.Bench on <u>24/01/2020</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	24.01.2020	<p>Nemo for petitioner.</p> <p>Notices be issued to petitioner/counsel for 11.03.2020 before S.B. The respondents shall also be put on notice for the date fixed.</p> <p style="text-align: right;"> Chairman</p>



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

Dated Peshawar the January 08, 2020

**NOTIFICATION**

**NO.SO(SM)E&SED/7-1/2020/Posting/Transfer/General:-** In Compliance of Khyber Pakhtunkhwa Service Tribunal, Peshawar Judgment dated 14.10.2019, in Service Appeal No.940/2019, the Competent Authority is pleased to cancel this Department order dated 12.06.2019, in respect of the officer, appearing at serial No.1 and direct the following officers of E&SE Department to continue their duties, as mentioned against their names:

S#	Name with designation	Duty station
1.	Mr. Latif Ur Rahman, Principal (BS-18) GHSS Kotkai Shangla	Principal (BS-18) GHSS Derai Alpuri Shangla
2.	Mr. Muhammad Siraj, HM (BS-17) working as Principal (BS-18) GHSS Derai Alpuri Shangla in OPS	HM (BS-17) GHS Ranyal Shangla

2. No TA/DA is allowed.

Endst: of even No. & Date

**SECRETARY**

Copy forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Male), Shangla.
4. District Accounts Officer, Shangla.
5. PS to Minister E&SE Department.
6. PS to Secretary E&SE Department.
7. PS to Special Secretary E&SE Department.
8. Director, EMIS E&SE Department.
9. Officers concerned.
10. Master file.

  
SECTION OFFICER (SCHOOLS MALE)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR**

COC Petition No. 02 /2020


**Latif ur Rehman ..... Appellant**

**VERSUS**

**Govt of KPK & others ..... Respondents**

**I N D E X**

<b>S.No</b>	<b>Description of Documents</b>	<b>Annex</b>	<b>Pages</b>
1.	COC Petition		1-4
2.	Affidavit		5
3.	<b>Copy of Appeal</b>	<b>A</b>	6-11
4.	<b>Copy of order dated 14.10.2019</b>	<b>B</b>	12-14
5.	<b>Copies of all relevant documents</b>	<b>C</b>	15-19
6.	<b>Wakalat Nama</b>		20



Petitioner

Through:



**SHAHID MEHMOOD KHAN**  
Advocate, High Court  
Peshawar

Dated: 01.01.2020

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

COC No. 02 /2020

Latif ur Rehman S/o Ghulam Rabbani R/o Lilonai Tehsil  
Alpuri District Shangla, Presently posted as Principal (BS-  
18) GHSS Kotki District Shangla

..... **Petitioner**

**VERSUS**

1. Nadeem Aslam Chaudhary, Secretary to Govt of  
Khyber Pakhtunkhwa Education Department, Khyber  
Pakhtunkhwa Peshawar
2. Hafiz Muhammad Ibrahim, Director E&SE Khyber  
Pakhtunkhwa GT Road Peshawar
3. Muhamamd Siraj s/o Bashimand R/o Petao Dherai,  
Tehsil Alpuri District Shangla, presently illegally  
serving as Principal (BPS-17) GHS Dherai, Tehsil  
Alpuri District Shangla.

..... **Respondents**

**PETITION UNDER CONTEMPT OF COURT LAW**  
**ALONG WITH ALL OTHER ENABLING**  
**PROVISIONS FOR INITIATING CONTEMPT OF**  
**COURT PROCEEDINGS AGAINST THE**  
**CONTEMNORS / RESPONDENTS FOR NOT**

**IMPLEMENTING THE ORDER DATED**  
**14.10.2019 OF THIS HON'BLE TRIBUNAL**  
**PASSED IN SERVICE APPEAL NO. 940/2019.**



**Respectfully Sheweth:-**

1. That the Petitioner filed a Service Appeal before this Hon'ble Tribunal against the Order dated 12.06.2019.  
**(Copy of Appeal is attached as annexure A)**
2. That on dated 14.10.2019 this Hon'ble Tribunal was pleased to accept / allow the Appeal of the Petitioner and passed a detailed and self-explanatory Judgment by allowing the prayer of the Petitioner and suspended the operation of the Order dated 12.06.2019, which is self-explanatory. **(Copy of Judgment dated 14.10.2019 is attached as annexure B)**
3. That the certified / attested copies of the Judgment dated 14.10.2019 were furnished to Respondents but they plainly refused to implement the Judgment of this Hon'ble Tribunal, hence the instant COC Petition is being filed.
4. That on dated 06.12.2019 the Petitioner filed an Application No. 3257 before the good self of Respondent No 1 but uptill now Respondent No 1 has turned deaf ear on the Application of the Petitioner,

which amounts to clear contempt of this Hon'ble Tribunal for which Respondent No 1 is accountable and is liable to be punished in accordance with law.

**(Copies of all relevant documents are attached as annexure C)**

5. That it is pertinent to mention here that the Petitioner along with attested copies of the Judgment dated 14.10.2019 visited the school concerned for arrival and tacking over the charge but Respondent No 3 plainly refused to honour the Judgment of this Hon'ble Court and locked all the offices and relevant record of the school i.e GHS Dherai, which suggest that accused Respondent No 3 is above the law for which he is accountable and liable to be punished in accordance with law and E&D Rules 2011.
6. That noncompliance of the order dated 14.10.2019 by Respondents is a sheer contempt of this Hon'ble Tribunal for which the Respondents are liable and they are entitled to be punished in accordance with the relevant provisions of contempt of Court Law and all other enabling provisions of Service Tribunal Act 1974.
7. That the aforesaid conduct of the Respondents / contemnors have lowered the authority of this Hon'ble Court in the eyes of Public at large in general and amongst the employees of the concerned Department in particular.

8. That this Hon'ble Tribunal needs to teach a lesson to the contemnors / Respondents that how to implement the judgment / Order of this Hon'ble Tribunal.
9. That any other grounds that will be raised at the time of arguments with prior permission of this Hon'ble Court.

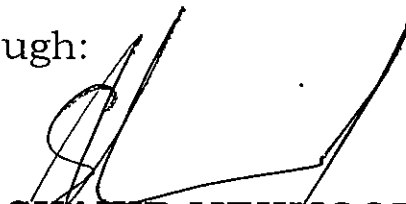
**It is, therefore, respectfully prayed that On acceptance of this COC Petition, the contempt of Court proceedings may kindly be initiated against the Respondents for noncompliance of the Order dated 14.10.2019 passed by this Hon'ble Tribunal. Moreover they be summoned and be punished in accordance with law**

**Any other relief deemed proper and fit in the circumstances of the case may also very graciously be granted to the appellant.**



Petitioner

Through:



**SHAHID MEHMOOD KHAN**  
Advocate, High Court  
Peshawar

Dated: 01.01.2020



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR**

COC Petition No. \_\_\_\_/2020

**Latif ur Rehman ..... Appellant**

**VERSUS**

**Govt of KPK & others ..... Respondents**


**A F F I D A V I T**

I, Latif ur Rehman S/o Ghulam Rabbani R/o Lilonai Tehsil Alpuri District Shangla, Presently posted as Principal (BS-18) GHSS Kotki District Shangla, do hereby solemnly affirm and declare on oath that the contents of the accompanying **COC Petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.



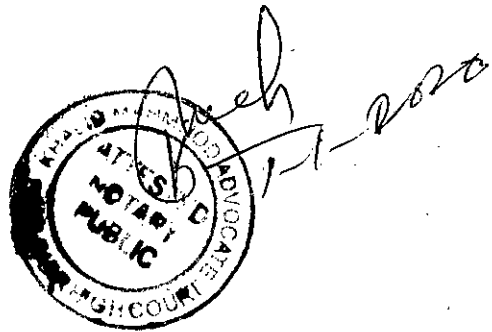
**DEPONENT**

Identified by:



**SHAHID MEHMOOD KHAN**

Advocate, Peshawar



Annex "A"

(b)

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



Service Appeal No. 940/2019

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 1013

Dated 18/7/19

Latif ur Rehman S/o Ghulam Rabbani R/o Lilonai Tehsil  
Alpuri District Shangla, Presently posted as Principal (BS-  
18) GHSS Kotki District Shangla

..... **Appellant**

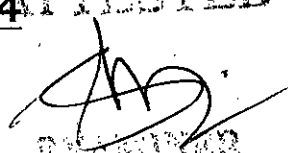
**VERSUS**

1. Govt of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Secretary Education, Civil Secretariat, Peshawar.
3. Director General, Elementary and Secondary Education, Khyber Pakhtunkhwa, GT Road Peshawar.
4. District Education Officer, (Male) Shangla.
5. Muhammad Siraj S/o Bashimand R/o Petao Dheri tehsil Alpuri District Shangal, presently posted as Principal (BS-17) GHS, Dherai, Tehsil Alpuri District Shangla

..... **Respondents**

**APPEAL UNDER SECTION 4 OF KHYBER**

**PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974**

**ATTESTED**  
  
**Registrar**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Filed on day  
18/7/19  
Registrar

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AGAINST THE ORDER OF RESPONDENT NO.2  
DATED 12.06.2019 AND ORDER DATED  
18.07.2019 PASSED BY RESPONDENT NO 1,  
WHEREBY THE TRANSFER AND POSTING ORDER  
DATED 31.05.2019 OF APPELLANT HAS BEEN  
CANCELLED WITHOUT ANY LAWFUL AND  
COGENT REASON AND THE DEPARTMENTAL  
APPEAL OF APPELLANT HAS BEEN DECLINED.

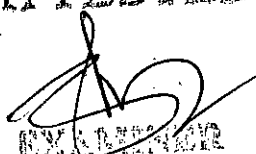
**Prayer:**

On acceptance of this Appeal the concerned respondents may please be directed to withdraw the order dated 12.06.2019 and order dated 18.07.2019 and to give effect to the transfer / posting order dated 31.05.2019 of the appellant.

**Respectfully Sheweth:-**

1. That the appellant was initially appointed as PST (PTC) Teacher on dated 27.12.1999, in the

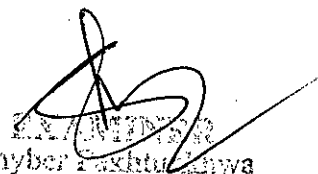
**ATTESTED**

  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Respondents Department and he has unblemished service record at his credit.

2. That after successful completion of service as PST the Appellant was promoted to CT on dated 01.07.2002.
3. That in the year 2011 the Appellant was appointed and posted as Subject Specialist on the recommendation of Public Service Khyber Pakhtunkhwa, Peshawar.
4. That keeping view the best performance and service record of the Appellant, he was promoted to BS-18 vide order dated 31.05.2019 and was posted at GHS Dheri Alpuri as Principal against a vacant post. **(Copy of Order dated 31.05.2019 is attached) Annex "A"**
5. That on dated 12.06.2019 Respondent No 2 passed another order in shape of corrigendum and the Appellant was transferred and posted as Principal at GHSS Kotkay Shangla without showing any cogent reason and the Respondent No 5 was illegally and malafidely posted as Principal at GHS Dherai tehsil Alpuri District Shangla, inspite of the fact that Respondent No 5 is still working in BPS-17 and the post of Principal is of BS-18, which is blatantly against the rules and the law. **(Copy of Order dated 12<sup>06</sup>/<sub>19</sub> is attached Annex "B"**
6. That it is pertinent to mention here that the post of principal in BS-18 at GHS Dherai was vacant and in

ATTESTED

  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

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this respect the Appellant have already taken post availability certificate from Respondent No 4. **(Copy of Certificate is attached) Annex "C"**


7. That feeling extremely aggrieved from the order dated 12.06.2019 the Appellant filed a departmental Representation / Appeal before the good office of Respondent No 1 but which was declined vide order dated 18.07.2019. **(Copy of Order dated 18.07.2019 is attached) Annex "D"**
8. That the Appellant having no other efficacious, alternate and adequate remedy, but approaches this Hon'ble Court, for setting aside the impugned orders dated 12.06.2019 and 18.07.2019, inter alia on the following grounds:-

**GROUND S:-**

- A. That the impugned order dated 12.06.2019 of Respondent No 2 is illegal, unlawful, without authority as well as based on the malafide intentions.
- B. That the appellant is eligible and well qualified to be posted as Principal at GHS Dherai in BS-18 hence the impugned order dated 12.06.2019 is liable to be set aside along with order dated 18.07.2019 at this score alone.

That the order dated 12.06.2019 is against the law, facts and the policy and the rules, hence the order

**ATTESTED**

  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar


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dated 12.06.2019 & order dated 18.07.2019 are liable to be set aside because the post in BS-18 has been given to Respondent No 5 who is ineligible for the said post.

- D. That the order dated 31.05.2019 was a valid order and the order dated 12.06.2019 is totally illegal, unlawful and discriminatory and is against the fundamental rights guaranteed under the constitution of Islamic republic of Pakistan 1973.
- E. That there is also not a single charge or complaint against the Appellant but the Respondent No 2 passed the order illegally and without any lawful reasons which is also against the law and the natural justice.
- F. That the order dated 12.06.2019 and 18.07.2019 are against the law, facts and the policy and it is also against the reported Judgment which is reported as 2014 PLC (CS 1045) as the Respondent No 2 has cancelled the order dated 31.05.2019 without giving any cogent reason.
- G. That the Appellant seeks the permission of this Hon'ble Tribunal to file further documents in the instant Appeal during its pendency.
- H. That any other ground will be raised at the time of arguments with prior permission of this Hon'ble Tribunal.

ATTESTED

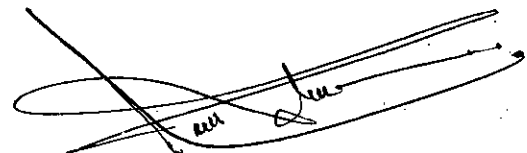
  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar




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It is, therefore, respectfully prayed that On acceptance of this Appeal the concerned respondents may please be directed to withdraw the order dated 12.06.2019 and order dated 18.07.2019 and to give effect to the transfer / posting order dated 31.05.2019 of the appellant.

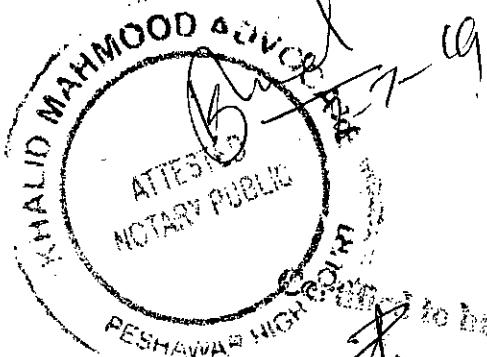
Any other relief deemed proper and fit in the circumstances of the case may also very graciously be granted to the appellant.

  
Appellant

Through:   
**SHAHID MEHMOOD KHAN**  
Advocate, High Court  
Peshawar

**CERTIFICATE:-**

Certified that as per instructions of my client no such Service Appeal on behalf of the petitioner has earlier been filed in this Hon'ble Tribunal on the subject matter.

  
KHALID MAHMOOD  
ATTES  
NOTARY PUBLIC  
PESHAWAR HIGH COURT

  
**ADVOCATE**

  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Amicus "B"

12



Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

**Appeal No. 940/2019**

Date of Institution ... 30.04.2019

Date of Decision ... 14.10.2019

Latif Ur Rehman S/O Ghulam Rabban R/o Lilonai Tehsil Alpuri  
District Shangla, Presently posted as Principal (BS-18) GHSS Kotki  
District Shangla. .... **Appellant**

**Versus**

Government of Khyber Pakhtunkhwa through Chief Secretary, Civil  
Secretariat, Peshawar ..... **Respondents**

**Mr. Muhammad Hamid Mughal** ..... **Member (J)**

**Mr. Hussain Shah** ..... **Member (E)**

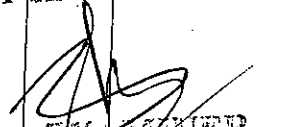
14.10.2019

**JUDGMENT**

**Mr. HUSSAIN SHAH:-** Learned counsel for the appellant and Mr. Kabirullah Khattak learned Additional Advocate General for the official respondents and counsel for private respondents present.

2. Previously served as PST teacher since 27.12.1999. The appellant was promoted to CT teacher dated 01.07.2002. In the year 2011 he was appointed as subject specialist on recommendation of Public Service Commission on 31.05.2019. After being promoted to BPS-18 he was posted to GHSS Dheri Alpuri as Principal against the vacant post. On 12.06.2019 respondent No.2 transferred and posted the appellant as Principal GHSS Kotkay Shangla while Private Respondent No.5 was authorized to continue as Principal GHSS Dheri Alpuri in his Own Pay Scale vide another order of 12.06.2019. Feeling aggrieved by the order of Respondent No. 2 on 12.06.2019 the appellant filed departmental representation to respondent No.1 which was rejected vide order dated 18.07.2019 hence the appellant filed the instant service appeal on 23.07.2019 with the prayer to setting aside the impugned order dated

**ATTESTED**

  
MEMBER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar



12.06.2019 & 18.07.2019.

3. Learned counsel for the appellant argued that the impugned order dated 12.06.2019 of respondent No.2 is illegal unlawful and based on malafide intention. Further contended that after a period of Eleven (11) days of the order dated 31.05.2019 the appellant was posted out vide impugned order in violation of tenure policy without any reason or rational to GHSS Kotkai Shangla. Further contended that the Private Respondent No.5 is in BPS-17 and is working against a Higher post of Principal. Learned counsel for the appellant relied on reported judgment 2014 PLC (C.S. 1045). As Respondent No.2 cancelled the order dated 31.05.2019 without any cogent reason. He further relied on reported judgment 2003 SCMR 325 and PLJ 2013 SC (AJ&K 344 D.B).

3. Learned counsel for Private respondent No.5 argued that the impugned order dated 12.06.2019 was issued as a result of the representation of the Respondent No.5 on the basis of medical ground which was approved by the competent authority on humanitarian grounds. He further contended that as the appellant has already taken over charge in the GHSS Kotkai District Shangla and as under the provision of the Civil Servant Act, 1973 and rules made there under that every Civil Servant is required to be posted anywhere in the province as decided by the competent authority in the public interest hence the appeal may be dismissed.

4. The Learned Additional Advocate General contested the facts, grounds of the appeal and argument of the learned counsel for the appellant and contended that the Private Respondent No.5 was posted in the GHSS Dheri Alpuri by the competent authority vide order dated 12.06.2019 on the medical ground and the school being located in the vicinity to his resident. He further contended that both the orders dated

ATTESTED

ATTESTED  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar

12.06.2019 and 18.07.2019 were issued in accordance with the Rules Policy of the government and in public interest hence the appeal may be dismissed with heavy costs,

5. Arguments heard. File Perused.

6. After the detailed scrutiny of the documents on record, arguments and counter arguments of the learned counsel of the appellant and the learned Additional Advocate General this Tribunal observes that the order dated 31.05.2019 was issued after the promotion of forty four (44) Officers of the Education Department from BPS-17 to BPS-18 for the purpose of posting/adjustment. The appellant Mr. Latif Ur Rehman was posted as Principal BPS-18 GHSS Dheri Alpuri Shangla while private Respondent No.5 Muhammad Siraj Subject Specialist History/Civics (BPS-17) working as Principal GHSS Dheri Alpuri District Shangla was posted as Subject Specialist History/Civics BPS-17 GHSS Bisham Shangla. The order dated 12.06.2019 was issued as a partial notification of the order dated 31.05.2019 wherein the appellant is BPS-18 Officer was posted out from the post of Principal GHSS Dheri Alpuri Shangla to the post of Principal Kotkai Shangla while Muhammad Siraj (BPS-17) Private Respondent No.5 was retained as Principal GHSS Dheri Alpuri Shangla through a separate order NO.SO(SM)E&SED/7-1/2019/Posting/Transfer/General dated 12.06.2019. It is an admitted fact that Muhammad Siraj Private Respondent No.5 is a BPS-17 Subject Specialist while the appellant is a BPS-18 Officer. It is also an admitted fact that the Principal of GHSS is a senior position in BPS-18 and Muhammad Siraj retained as Principal in his own pay scale. It is also an admitted fact that according to the statutory provision every Civil Servant is required to work anywhere in the province as per direction of the competent authority in public interest.

*Latif Ur Rehman*

ATTESTED

*[Signature]*  
 CHAIRMAN  
 Cyber Tribunal  
 Service Tribunal,  
 Peshawar

It is also noted that the tenure of posting, relevance of the grade of the post and the BPS of the holder of that post are the three (03) main factors to be considered while the competent authority is exercising its power as per the statutory provision regarding the posting of a Civil Servant.

7. In view of the above discussion the Private Respondent No.5 is a BPS-17 officer while the appellant is a BPS-18 officer. Moreover the corrigendum order was issued after Eleven (11) days of the order issued on 31.05.2019 which is against the tenure policy of the government hence the appeal is accepted as per prayer. Parties are left to bear their own costs. File be consigned to the record room.

(Muhammad Hamid Mughal)  
Member

(Hussain Shah)  
Member

**ANNOUNCED**  
14.10.2019

Date of Presentation of Application 22-10-19  
 Number of Words 4000  
 Copying Fee 42-00  
 Urgent \_\_\_\_\_  
 Total 42-00  
 Name of Copy [Signature]  
 Date of Completion of Copy 25-11-19  
 Date of Delivery of Copy 25-11-19

**Certified to be true copy**  
  
CLERK  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Amir <sup>11/12/12</sup>

(15)

ELEMENTARY & SECONDARY EDUCATION DEPARTMENT,  
GOVERNMENT OF KHYBER PAKHTUNKHWA

para 13 A is submitted for  
perusal and approval please.

S. Secretary

Ref  
18/12

*[Handwritten signature]*

proposal at 13 A & 13 B may

be approved please.

*[Handwritten signature]*

Secty B & SR

19/12

*[Handwritten signature]*  
**ATTESTED**

B-13 the said order and allow the  
 appellant namely Mr. Latif ur Rehman, BS-18  
 to continue his duty as principal (BS-18)  
 GHS Dheri Alpuri Shangla and Mr. Muhammad  
 Siraj, HM (BS-17) working as principal (BS-18)  
 GHS Dheri Alpuri Shangla may be  
 adjusted somewhere against his relevant  
 post.

13-B It may be noted that Mr. Muhammad  
 Siraj HM (BS-17), vide F/A, has too requested  
 to adjust him against his relevant post  
 of HM (BS-17) GHS Ranyal Shangla, against  
 vacant post.

**ATTESTED**

14. Submitted please.

S. Rafiq  
19/12

15. DS(A) : Para-10/n is submitted for perusal with  
 reference to para-9/n and paras-12&13/n for approval  
 in light of Court judgment please.  
 akre  
 OTN.  
 1-12

16/12

17

ELEMENTARY & SECONDARY EDUCATION DEPARTMENT,  
GOVERNMENT OF KHYBER PAKHTUNKHWA

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what is your proposal P<sub>3</sub>, P<sub>4</sub>  
make sure to reach this file  
by tomorrow. P<sub>3</sub> don't move the  
file without proposal!

ASE

16/12

10

~~DS/P~~

pl. give effect to  
the transfer/posting order  
dated 31.5.2019 in light  
of the Judgment of the S. Tribunal  
if necessary get approval of the Secy. & ASE

17.12

11

As directed.

DS(A)

18-12-2019

ATTESTED

SOS(M)

18/12/19

Reference Para-9/N

12

Keeping in view the Judgment  
of Khyber Pakhtunkhwa Service Tribunal  
Peshawar dated 14/10/18 in Service Appeal  
No. 940/2018, If agreed, we may implement

N.P.P

it is an admitted fact that Muhammad Siraj Private Respondent No. 5 is a BS-17 Subject Specialist while the appellant is BS-18 officer. It is also an admitted fact that the Principal of GHSS is a senior position in BS-18 and Muhammad Siraj retained as Principal in his own pay scale.

It is also an admitted fact that according to the statutory provision every Civil Servant is required to work any where in the province as per direction of the competent authority in public interest. It is also noted that the tenure of posting, relevance of the grade of the post and the BPS of the holder of that are the three main factors to be considered while the competent authority is exercising its power as per the statutory provision regarding the posting of a Civil Servant.

In view of the above decision the Private Respondent No.5 is a BS-17 officer while the appellant is a BS-18 officer, moreover the corrigendum order was issued after Eleven days of the order issued on 31.052019 which is against the tenure policy of the government hence the appeal is accepted as per prayer.

Keeping in view the above, it is stated that this is simple transfer/ adjustment case.

The case is submitted for perusal/ appropriate orders as deem appropriate, please

**ATTESTED**

20/12/12  
S.O (Lit-II)

DS(Legal)

7- Para 1 to 3/N may please be seen in a glance.

8- Para 4/N is submitted for perusal & order please.

10-12-2012

A. S. (E. Stab) E. S. E. D.

S. Secretary E. S. E. D.

para 4 and 6 is submitted for perusal order please

*[Signature]*

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

19

Subject: SERVICE APPEAL NO. 940/2019 TITLED LATIF UR  
REHMAN VS GOVT. OF KHYBER PAKHTUNKHWA  
AND OTHERS.

Judgment of KP Service Tribunal announced on 14-10-2019 in Service Appeal No. 940/2019 regarding posting of Mr. Latif ur Rehman BS-18 Principal in GHS Dheri Alpuri District Shangla. posted at GHSS Kotki District Shangla challenged his transfer order dated 12-06-2019 where under he was posted as Principal (BS-18) in GHSS Kotki Shangla. Muhammad Saraj Principal (BS-17) GHS Dheri Tehsil Alpuri District Shangla was also held respondents No. 5 alongwith 04 others authorities of the Education Department in the instant service appeal. The case was contested before the Honourable Service Tribunal Peshawar however, he got succeeded in getting decision in his favour. The operative part of the judgment is reproduced as under:-

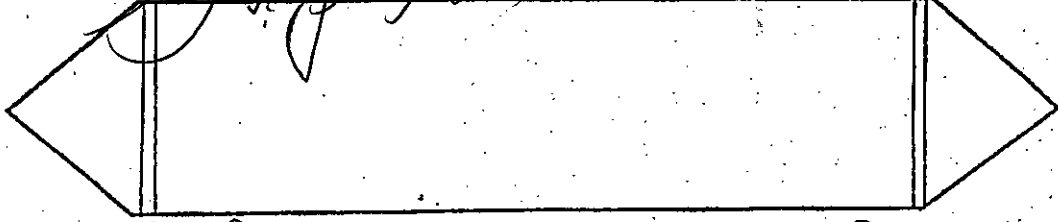
2. After the detailed scrutiny of the documents on record, arguments and counter arguments of the learned counsel of the appellant and the learned Additional Advocate General this Tribunal observes that the order dated 31.05.2019 was issued after the promotion of forty four officers of the Education Department from BS-17 to BS-18 for the purpose of posting/ adjustment. The appellant Mr. Latif ur Rehman was posted as Principal BS-18, GHSS Dheri Alpuri Shangla while private Respondents No.5 Muhammad Siraj Subject Specialist History/ Civics BS-17 working as Principal GHSS Dheri Alpuri District Shangla was posted as Subject Specialist History/Civics BS-17 GHSS Bisham Shangla. The order dated 12.06.2019 was issued as a partial notification of the order dated 31.05.2019 wherein the appellant is BS-18 Officer was posted out from the post of Principal GHSS Dheri Alpuri Shangla to the post of the Principal Kokai Shangla while Muhammad Siraj BS-17 Private Respondent No. 5 was retained as Principal GHSS Dheri Alpuri Shangla through a separate order No. SO(SM)E&SED/7-1/2019/Posting/Transfer/General dated 12.06.2019,

**ATTESTED**



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بعد التکمیل سند کارروائی کے لئے منظور خواہ



Petitioner

2020ء پنجاب

01-01-2020

موزعہ

پٹنٹ کارروائی بنام ندرجہ ذیل رجسٹرڈ وائٹنر

COC

مقدمہ

دعویٰ

جرم

### باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ آن مقام لسٹڈ رجسٹرڈ وائٹنر کیلئے بیسٹ رجسٹرڈ وائٹنر مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے و تقرر حالتہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور صولی چیک دروپیا عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی 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 نیا اپنے بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ درجاند التوائے مقدمہ کے سبب سے ہوگا۔ 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 لکھ دیا کہ سند ہے۔

Shahri of Mahmood Khan

المرقوم 01/01/2020

واہ العیاد

کے لئے منظور ہے۔

BC-10-3539

Cell 03339306491

Attested & Accepted of  
 Shahri of Mahmood Khan  
 Advocate