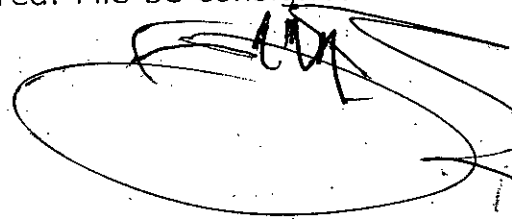


14.01.2021

Mr. Amin Ayoub, Advocate, for appellant is present. He submitted application for withdrawal of the appeal with permission to file a fresh appeal in view of a fresh notification dated 21.12.2020 wherein a fresh cause of action has accrued. The contents of application were reiterated to the learned counsel for appellant which he accepted as correct. Accordingly, the appeal stands dismissed as withdrawn. The appellant is at liberty to file fresh appeal, if he so desired. File be consigned to the record room.

ANNOUNCED
14.01.2021



(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

21.12.2020

Appellant with counsel present.

Kabir Ullah Khattak learned Additional Advocate General alongwith Rehman Ullah Assistant for official respondents No.1 & 2 present. Tariq Kamal Advocate present and submitted Wakalat Nama in favor of private respondent No.3.

Written reply on behalf of private respondent No.3 was submitted. Representative of official respondents No.1 & 2 made a request for time to furnish reply/comments. Opportunity is granted. To come up for written reply/comments on 14.01.2021 before S.B. In the meanwhile, the operation of impugned transfer order/corrigendum dated 17.08.2020 shall remain suspended, if not already acted upon.

(AMJIAID)

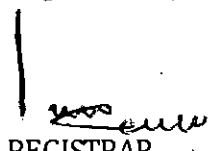


(Rozina Rehman)
Member (J)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 149586 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	30/11/2020	<p>The appeal of Mr. Javed Iqbal resubmitted today by Mr. Khalid Rahman 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-	03.12.2020	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>03/12/2020</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p>Counsel for the appellant present.</p> <p>Contends that the appellant was appointed as Principal (BPS-18) and was posted at GHSS Khadi Killi, Mardan against the vacant post on 06.08.2020. He duly took over charge and started performing duty. There-for his conditional release of pay order was also issued on 12.08.2020. Only after eleven days another notification was issued by respondents, whereby, the private respondent No. 3, a Subject Specialist in Physics, was transferred and posted as Principal, GHSS Khadi Killi, Mardan in place of appellant. On the even date a corrigendum was also issued, whereby, the posting of appellant was altered to read as "Principal B.S-18 GHSS Ambela, Buner." In view of learned</p> <p></p>

counsel, the impugned transfer of appellant was not only premature in light of posting/transfer Policy of Provincial Government but was also politically motivated as copy of notification was officially endorsed to P.S to Minister, E&SE Department. It was further argued that respondent No. 3, who was not a Principal, was posted against the post meant for Principal, which reflected malafide on the part of respondents. Learned counsel relied on judgments reported as PLD 2013 Supreme Court 195 and 2007 SCMR 599.

The available record and arguments of learned counsel prompt for admission of instant appeal for regular hearing. Admit. Appellant is required to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 21.12.2020 before S.B.

Alongwith the appeal there is an application for interim relief in the form of suspension of operation of the impugned order. Notice of the application be also given to the respondents for the date fixed. In the meanwhile, the operation of impugned transfer order/corrigendum dated 17.08.2020 shall remain suspended, if not already acted upon.


Chairman

Appellant Deposited
Security Process Fee

03/12/20

This is an appeal filed by Mr. Javed Iqbal today on 27/11/2020 against the order dated 17/08/2020 against which he preferred/made departmental appeal/ representation on 31.08.2020 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, which is premature as laid down in an authority reported as 2005-SCMR-890.

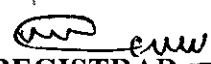
As such the instant appeal is returned in original to the appellant/Counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action and also removing the following deficiency.

The authority whose order is challenged has not been arrayed/made a necessary party.

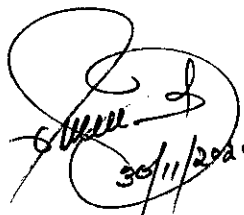
No. 3922/ST,

Dt. 27/11/2020.

Mr. Khaled Rehman Adv. Pesh.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Resubmitted after compliance. The appeal is now mature, may please be placed before the Bench.


30/11/2020

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 14956 /2020

Javed Iqbal..... Appellant

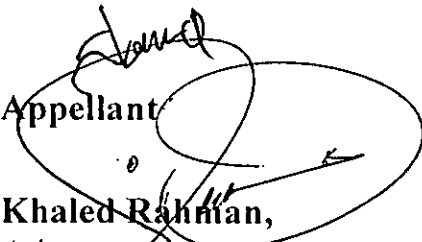
Versus

The Govt. of KPK and others..... Respondents


INDEX

S.#	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal			1-4
2.	Stay Application with Affidavit			5
3.	Notification of appointment	06.08.2020	A	6-10
4.	Pay Release Order of appellant	12.08.2020	B	11
5.	Letter by the DAO, Mardan to the appellant	13.08.2020	C	12
6.	Impugned transfer order/Corrigendum	17.08.2020	D	13-14
7.	Departmental Representation	31.08.2020	E	15-17
8.	Posting/Transfer Policy		F	18 - 22
9.	PLD 2013 SC 195		G	23 - 27
10.	Office Memorandum	03.01.2013	H	28 - 31
16.	Wakalat Nama			32

Through


Appellant
Khaled Rahman,
Advocate,
Supreme Court of Pakistan

&


Muhammad Amin Ayub
Advocate, High Court
3-D, Haroon Mansion
Khyber Bazar, Peshawar
Off: Tel: 091-2592458
Cell # 0345-9337312

Dated: 27 /11/2020

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 15778

Dated 27/11/2020

Mr. Javed IqbalPrincipal (BPS-18),
Govt. Higher Secondary School,
Khadi Kaley, MardanAppellant

VERSUS

1. The Govt. of Khyber Pakhtunkhwa
through Chief Secretary,
Civil Secretariat, Peshawar.
2. The Secretary
to Govt. of Khyber Pakhtunkhwa
~~CE, SE~~ Department,
Civil Secretariat, Peshawar.
3. Mr. Sabir Hussain,
Senior Subject Specialist (Physics) (BPS-18),
Govt. Higher Secondary School,
Nawagai, Buner.....Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER/CORRIGENDUM DATED 17.08.2020 WHEREBY THE APPELLANT WAS PREMATURELY TRANSFERRED FROM THE POST OF PRINCIPAL (BPS-18) WHILE RESPONDENT NO.3 WAS TRANSFERRED VICE THE SAME POST AGAINST WHICH HE PREFERRED DEPARTMENTAL APPEAL BEFORE RESPONDENT NO.1 ON 31.08.2020 BUT THE SAME WAS NOT DISPOSED OF WITHIN THE STATUTORY PERIOD OF 90 DAYS.

PRAYER:

On acceptance of the instant appeal, the impugned transfer order/Corrigendum dated 17.08.2020 issued by Respondent No.2 may graciously be set aside by allowing the appellant to serve as Principal, Govt. Higher Secondary School, Khadi Kaley, Mardan under the Posting/Transfer Policy in the public interest as well as in the interest of justice.

Re-submitted to -day
and filed

Registrar

30/11/2020

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. That on the recommendations of the Khyber Pakhtunkhwa Public Service Commission, appellant having been appointed vide Notification dated 06.08.2020 (*Annex:-A*), took over the charge at GHSS Khadi Kaley Mardan pursuant to his posting/adjustment.
2. That on obtaining the charge appellant started performing his duties at the subject School. His salary was also prepared against the same post as would be evident from the Pay Release Order dated 12.08.2020 (*Annex:-B*) and letter dated 13.08.2020 (*Annex:-C*) under the subject Pay Slip issued by the District Education Officer (M), Mardan and District Accounts Officer, Mardan respectively.
3. That Respondent No.3 being a teaching cadre officer and posted as SSS at GHSS Nawagai, Buner started exerting Political Pressure for his premature transfer from his post succeeded in procuring the impugned transfer order/Corrigendum dated 17.08.2020 (*Annex:-D*) whereby he was transferred to the disputed School in utter violation of the law and Transfer/Posting Policy.
4. That being aggrieved by the impugned transfer order/Corrigendum ibid, the appellant challenged the same before the appellate authority/Respondent No.1 through a Departmental Representation (*Annex:-E*) dated 31.08.2020. The same was challenged through Civil Proceedings but due to issue of jurisdiction that could not be further proceeded. The Departmental Representation having not been disposed of within the statutory period of 90 days compelling the appellant to approach this Hon'ble Tribunal through instant Service Appeal inter-alia on the following grounds:-

Grounds:

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned transfer order/Corrigendum, which is unjust, unfair and hence not

sustainable in the eye of law.

- B. That the post of SSS (Physics) is a purely Teaching Cadre post and there are clear instructions of the Provincial Government that teaching cadre Officers cannot be posted against the administrative cadre. Thus the posting of Respondent No.3 against the subject post is in utter deviation and disregard of the law, thus not maintainable under the law.
- C. That the impugned transfer order/Corrigendum is against the tenure and Posting/Transfer Policy (*Annex:-F*) issued by the Provincial Government as well as against the Judgment (PLD 2013 SC 195 *Annex:-G*) of the august Supreme Court of Pakistan circulated through O.M. dated 03.01.2013 (*Annex:-H*). Moreover, the Government of Khyber Pakhtunkhwa, Establishment Department has also accorded the same.
- D. That the impugned transfer order/Corrigendum is neither in the public interest nor in exigency of service rather the same is in utter violation of Transfer/ Posting Policy and as such are not legally correct.
- E. That the impugned transfer order/Corrigendum is based upon political considerations instead of the public interest inas much as there is no justification muchless lawful for such unlawful premature transfer/ Corrigendum which is thus void ab-initio, unlawful, arbitrary and hence cannot be sustained under any canons of law, justice and fair-play.
- F. That the simultaneous two orders i.e. transfer and Corrigendum itself reflect the intension to unlawfully and out of the merit adjust Respondent No.3 against the subject post as a choice posting, therefore, the Competent Authority has wrongfully exercised discretion by unfairly treating the appellant at the expense of Respondent No.3 under political pressure.
- G. That the appellant had hardly served against the subject post for 11 days and was subjected to the premature transfer while simultaneously the tenure of the Respondent No.3 at GHSS Nawagai Buner was also one and a half year which too was premature thus on either side the impugned transfer order/Corrigendum confronted the Transfer/Posting Policy.

- H. That the issuance of the so called Corrigendum after the appellant took over the charge against the subject post, started performing his duty and preparation of his salary against the same post is an abusive exercise of official powers which has resulted in serious miscarriage of justice.
- I. That the impugned Notification/orders are the result of political consideration which is not only violative of the policy on the subject matter as reflected at Para No.2 of the posting/transfer Policy as well as the judgments of the Apex Court.
- J. That appellant would like to offer some other grounds during the course of arguments.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

Through

Appellant

Khaled Rahman,
Advocate,
Supreme Court of Pakistan

&

Muhammad Amin Ayub
Advocate, High Court

Dated: 27 /11/2020

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2020

Javed Iqbal Appellant

Versus

The Govt. of KPK and others.....Respondents

Application for suspending the operation of the impugned transfer order/Corrigendum dated 17.08.2020 till the final disposal of the instant appeal.

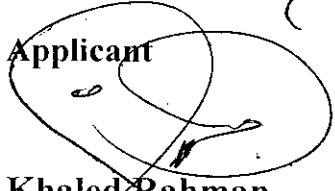
Respectfully Sheweth,

1. That the above titled service appeal is being filed today which is yet to be fixed for hearing.
2. That the facts alleged and grounds taken in the body of main appeal may kindly be taken as an integral part of this application, which make out an excellent prima facie case in favour of applicant/ appellant.
3. That the balance of convenience also lies in favour of applicant/appellant and in case the operation of the impugned transfer order/Corrigendum is not suspended the applicant/appellant will suffer irreparable loss.

It is, therefore, humbly prayed that on acceptance of this application, the operation of the impugned transfer order/Corrigendum dated 17.08.2020 may graciously be suspended till the final disposal of the main appeal.

Through

Applicant

David

Khaled Rahman,
 Advocate,
 Supreme Court of Pakistan

&


Muhammad Amin Ayub
 Advocate, High Court

Dated: 27 /11/2020

Verification

Verified that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

David
 Applicant/Appellant



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone: 091-9210480, Fax # 091-9211419

Dated Peshawar the August 06, 2020

NOTIFICATION

No. SO(SME&SED)/3-2/2017/ Recruitment of 204 Male Principals:

WHEREAS the Khyber Pakhtunkhwa Public Service Commission vide letter No.023290 dated 17.10.2019 has recommended 18 candidates for appointment in the overall category of Teaching Cadre in the Elementary and Secondary Education Department;

WHEREAS the Hon'ble Peshawar High Court, Abbottabad Bench disposed of the W.P No.1151 dated 23.10.2019 with the observation that "the advertised posts be considered as quota for initial recruitment in accordance with the recruitment rules for all the categories mentioned therein...";

WHEREAS the Competent Authority/Chief Minister Khyber Pakhtunkhwa in view of the recommendation of the KPPSC and the decision of the Hon'ble Peshawar High Court, Abbottabad Bench in W.P No.1151 dated 23.10.2019 is pleased to appoint the recommended eighteen (18) candidates in BS-18 in the overall Teaching Cadre of Elementary & Secondary Education;

WHEREAS the Public Service Commission has not thus far communicated the Inter-Se-Seniority of the recommended candidates and it is therefore not possible to allocate sub-cadres (Principal/Vice-Principal/Subject Specialist RITE/ Deputy Director PITE and other equivalent posts) as per Service Rules within the overall Teaching Cadre in accordance with the judgment of the Hon'ble High Court in W.P No.1151 dated 23.10.2019;

AND WHEREAS sub-cadres (Principal/Vice-Principal/Subject Specialist RITE/ Deputy Director PITE and other equivalent posts) within the overall Teaching Cadre of all 18 candidates recommended by the Commission will be allocated and notified subsequently upon receipt of Inter-Se-Seniority/Merit of the candidates from the Commission and choice of the candidates if any;

NOW THEREFORE the following 18 candidates recommended by the Commission are appointed in the overall Teaching Cadre subject to the terms and conditions mentioned hereafter in basic pay scale 18 @Rs.38350-2870-95750 plus usual allowances as admissible under the rules, on regular basis under the existing policy of the Provincial Government and posted against vacancies shown against their names:

Page 1 of 5

ATTESTED

A



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GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone: 091-9210480, Fax # 091-9211419

Sr#	Name with Father's Name	Domicile/Zone	Address	Posted as	Remarks
1.	Mr. Zia ud din S/O Hansid ul Haq	Dir lower/3	Nowsher Medicose, THQ Hospital, Samar Bagh Dir Lower	Vice-Principal (BS-18) GHSS Samar Bagh Dir Lower	AVP
2.	Mr. Muhammad Rafiq S/O Muhammad Shafi	Peshawar/2	C/O Khadim Carpenter, Near Khalil Academy, Sarbiand Pura, Hussain Chowk, Sethi Town, Haji Camp Peshawar	Principal (BS-18) GHSS Kharori Buner	AVP
3.	Mr. Saeed Ullah S/O Buzarg Ahmad	Dir Lower/3	Qazi Abad, Tatar, P/O & Tehsil Samar Bagh Dir Lower	Principal (BS-18) GHS Ossori Dir Upper	AVP
4.	Mr. Alam Khan S/O Amir Salam Khan	Swat/3	Village Islam Pur, P/O Saidu Sharif, District Swat	Principal (BS-18) GHSS Kalam, Swat.	AVP
5.	Mr. Tariq Ali S/O Jan Wali	Peshawar/2	PI TE, Larama, Landy Sarak, Behind Benazir Women University Peshawar	Instructor (BS-18) RITE (Male) Kohat	AVP
6.	Mr. Khizer Hayat S/O Khial Badshah	Karak/4	Main Bazar, in front of Zaiqa Tanoor, Algade, District Karak	SS English (BS-18) GHSS Dawaba, Hangu	AVP
7.	Mr. Said ul Hussain S/O Said ul Wahab	Shangla/3	Village, Tehsil and P/O Alpari District Shangla	Principal (BS-18) GHSS Kotkay Shangla	AVP
8.	Mr. Fakhr E Alam S/O Muhammad Ashraf	Peshawar/2	House#13/32, Naeem Manzil, Sunchri Masjid Road, Peshawar Cantt.	Senior Librarian BS-18 GHSS Wazirbagh Peshawar	AVP
9.	Mr. Sarfaraz Khan S/o Said Muhammad	Peshawar/2	C/O Sardar Tailor, Haji Nawaz Market, Din Bahar Colony, Charsadda Road Peshawar	SS Economics (BS-18) GHSS Fatehpur Swat	AVP
10.	Mr. Muhammad Ijaz Khan S/O Gul Nawaz Khan	Lakki Marwat/4	C/O N/Sub Clk Muhammad Nawaz, Training Wing, DSF	Principal (BS-18) GHS Tajori Tank	AVP

[Handwritten signature and date]
06/08/2020

ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone: 091-9210480, Fax # 091-9211419

			Centre. Cantt. District D.I. Khan		
11.	Mr. Irfan Ullah S/o Farman Ali	Mardan/2	Village Sadiq Abad P/O Chargulli Tehsil Rustam District Mardan	Principal (BS-18) GHSS Utror Swat	AVP
12.	Mr. Muhammad Alam S/O Bahadar Khan	Mohmand/1	C/O Sartaj Khan Composing Center, Madina Market, Muhammadi Street. Lala Zar Colony, University Campus, Peshawar	SS Physics (BS-18) GHSS Lachi, Kohat.	AVP
13.	Mr. Javed Iqbal S/O Ghulam Qadar	Bajaur/1	Village Asif Killy P/O & Tehsil Takhti Bai District Mardan	Principal (BS-18) GHSS Khadi Killy Mardan	AVP
14.	Mr. Tariq Iqbal S/O Muhammad Ayub Khan	Karak/4	Village Garh Jawal Khel, P/O Jandrai, Tehsil & District Karak	Principal BS-18 GHSS Chaudwan D.I.Khan	AVP
15.	Mr. Muhammad Yousuf S/O Ghulam Musa	Chitral/3	Miraj Uddin House, AKPBSP office Near GHS Baiach Chitral	Senior Instructor (BS-18) RITE Drosh Chitral Lower	AVP
16.	Mr. Maidad Gul S/o Amir Gul	Buner/3	Village Cheena, Tehsil Gagra, P/O Daggar, District Buner	SS Urdu (BS-18) GHSS Gagra Buner	AVP
17.	Mr. Shahid Ali S/O Shamal Khan	Khyber/1	C/O Principal GHS Jan Khan Killi Bara District Khyber	Principal (BS-18) GHS Tooti Bagh Orakzai	AVP
18.	Mr. Munawar Khan S/O Gul Wali Khan	FR Bannu/1	Village Pinda Khel, P/O Domei. Surat Khan General Store, Azim Killa Ada, Bannu	Principal (BS-18) GHS Jilar Upper Dir	AVP

Terms and Conditions:

1. They shall be governed by the Khyber Pakhtunkhwa Civil Servants Act, 1973 and the rules made thereunder.

ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA

ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone: 091-9210480, Fax # 091-9211419

2. The sub-cadres within the overall Teaching Cadre (Principal/Vice-Principal/Subject Specialist RITE/ Deputy Director PITE and other equivalent posts) of the appointed candidates shall be determined on the receipt of Inter-Se-Seniority/Merit from the Khyber Pakhtunkhwa Public Service Commission and preferences of the candidates, if any, and notified subsequently.
3. Their services shall be confirmed only on successful completion of probation for an initial period of one year which may be extended if so required for further one year as per rules.
4. Their pay shall be released subject to verification of their academic documents/testimonials from the concerned Board/University by the District Education Officer (Male) concerned.
5. They shall be eligible for pension/deduction of GP Fund in terms of the Khyber Pakhtunkhwa Civil Servants Act, 1973 as amended in 2013.
6. They shall be governed by such rules & regulations as may be issued from time to time by the Government.
7. Their services shall be liable for termination at any time, in case their performance was found unsatisfactory during probationary period.
8. The appointees shall join their posts within 30 days of the issuance of this notification and the Director E&SE Khyber Pakhtunkhwa Peshawar shall furnish a certificate to the effect that the candidates have joined their posts, failing which their candidature shall expire automatically and no subsequent appeal etc shall be entertained.
9. Charge assumption report should be submitted to all concerned.
10. No TA/DA shall be allowed to the appointees for joining their duties.

SECRETARY

Endst: of even No. & Date :-

Copy forwarded to the:

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar, along-with application forms and medical reports of the above candidates.
3. Director (Recruitment) Khyber Pakhtunkhwa Public Service Commission Peshawar.
4. District Education Officers (Male) Concerned.
5. District Accounts Officers Concerned.

~~ATTACHED~~

10

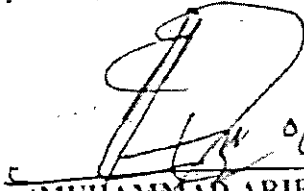


GOVERNMENT OF KHYBER PAKHTUNKHWA

ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar

Phone: 091-9210480, Fax # 091-9211419

6. PS to PSO to Chief Minister Khyber Pakhtunkhwa.
7. PS to PSO to Chief Secretary Khyber Pakhtunkhwa, Peshawar.
8. PS to Advisor to CM for E&SE Department, Khyber Pakhtunkhwa.
9. Director EMIS, E&SE Department for uploading at the official website.
10. PS to Secretary E&SE Department, Khyber Pakhtunkhwa.
11. Officers concerned.
12. Office order file.


06/08/2020
(MUHAMMAD ARIEF)

SECTION OFFICER (SCHOOLS MALE)

ATTESTED



OFFICE OF THE
DISTRICT EDUCATION OFFICER
(MALE) MARDAN



☎ & ☎ 0937-933151 , ✉ deomalemardan@gmail.com

PAY RELEASE ORDER CONDITIONALLY

Consequent upon approval given by the competent authority on the affidavit given for conditionally pay release in the light of Notification vide Director E&SE Khyber Pakhtunkhwa No.4423-81/file No.REP/EOI/REC/testing services dated 03.03.2020, The pay in respect of Mr Javed Iqbal appointed as Principal in BPS-18 at GHSS Khadi Killi T.Bhai Mardan vide Notification No.SO(SM)E&SED/3-2/2017/Recruitment of 204 Male Principals dated 06.08.2020 is hereby released for the period of three months with effect from the date of his taking over charge against the said posts subject to the condition mentioned below:-

Conditions

1. He will be responsible for all deficiencies/fake documents if found during verification.
2. He will refund all payments to the Govt: Treasury .
3. FIR will be lodged against him..

It is further added that his proper pay release order will be issued as and when their documents verification received from the concerned Board/Universities to this office.

(Zahid Muhammad)
DISTRICT EDUCATION OFFICER
(MALE) MARDAN

Endst: No. 4023-24 /Principals/V.Prin:& SS conditionally pay release file/ Dated Mardan the 12-8- /2020
Copy of the above is forwarded for information & n/action to the-

1. PS to Sectary Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. Principals Concerned.
4. D.A.O. Mardan.

[Signature]
DISTRICT EDUCATION OFFICER
(MALE) MARDAN

ATTESTED

12

Annex C²

ATM-09

(See Para,59, Audit Manual)

OFFICE OF THE DISTRICT COMPTROLLER OF ACCOUNTS MARDAN

No.DAO/PR-II/2019-20/L-18-B-P-61

Dated: 13.08.2020

To

Mr..Javed Iqbal
Principal BPS-18
G.H.S.S Khadi Kalli Mardan

P.No. 586261

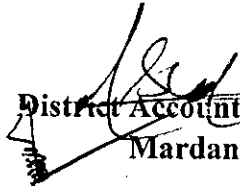
Subject: PAY SLIP.

Consequent upon your Appointment as Principal B-18 throug KP PSC vide Notification No. SO(SM)E&SED /3-2/2017 dated: 06-08-2020 at S.No13 you are hereby authorized to draw pay and allowances as under:

B-18 (38350-2870-95750)

Description	7/8/2020
B.Pay	38350
P.Pay Ch.H1	100
HRA	5810
Conv	5000
Med	2420
PH.D.All	
AR:2013	660
AR:2015	452
AR:2016	2356
AR17	3835
AR18	3835
AR19	1917
Total	64635

All deductions as per Prescribed rates.


District Accounts Officer
Mardan.

ATTESTED



B | Annex 'D'

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

Dated Peshawar the August 17, 2020

NOTIFICATION

NO.SO(SM)E&SED/7-1/2020/Posting/Transfer/General: The Competent Authority is pleased to transfer Mr. Sabir Hussain, Subject Specialist Physics (BS-18) Government Higher Secondary School Nawagi, Buner and post him as Principal (BS-18) Government Higher Secondary School Khadi Killi Mardan, against the vacant post, in the public interest, with immediate effect.

2. Rest of terms and conditions of notification dated 06.08.2020 shall remain intact.

3. 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) Buner, Mardan.
4. District Accounts Officer Buner, Mardan.
5. PS to Minister for E&SE Department.
6. PS to Secretary E&SE Department.
7. PS to Special Secretary E&SE Department.
8. PA to Deputy Secretary (Admn) E&SE Department.
9. Director, EMIS E&SE Department.
10. Subject Specialist concerned.
11. Master file.


(MUHAMMAD ARIF)

SECTION OFFICER (SCHOOLS MALE)

ATTESTED



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

Dated Peshawar the August 17, 2020

CORRIGENDUM

NO.SO(SM)E&SED/3-2/2017/Recruitment of 204 Male Principals: The entry appearing in column 5 of notification of even number dated 06/08/2020 in respect of Mr. Javed Iqbal S/O Ghulam Qadar may be read as "Principal (BS-18) GHSS Ambela Buner" as desired by Competant Authority. However, rest of the conditions laid in notification ibid shall remain intact.

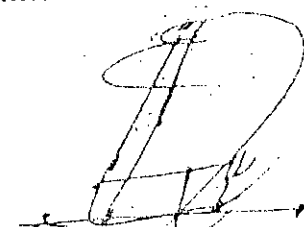
2. No TA/DA is allowed.

Indst. 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), Concerned.
4. District Accounts Officer Concerned.
5. PS to Minister for E&SE Department.
6. PS to Secretary E&SE Department.
7. PS to Special Secretary E&SE Department.
8. PA to Additional Secretary (Estab) E&SE Department.
9. PA to Deputy Secretary (Admn) E&SE Department.
10. Director, EMIS E&SE Department.
11. Subject Specialist concerned.
12. Master file.


(MUHAMMAD ARIF)

SECTION OFFICER (SCHOOLS MALE)

ATTESTED

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Annex E

**GOVERNMENT HIGHER SECONDARY SCHOOL
KHADI KILLI DISTRICT MARDAN**

No. 55

Dated: 31/18/2020

The Honorable Chief Secretary,
Khyber Pakhtunkhwa Peshawar

Subject: Taking over charge against the FILLED POST of B-18 Principal GHSS Khadi Killi Mardan

Memo:

It is with profound sense of honor and veneration, stated that on the recommendations of the KP Public Service Commission, and in thereof in compliance to your worthy office order No. SO(SM)E&SED/3-2/2017/RECRUITMENT OF 2014 MALE PRINCIPALS dated Peshawar the August 6, 2010, (annex-1) the undersigned took over his charge as Principal B-18 of this school against the vacant post (annex-2) and has followed all the official procedure as per rules before taking over the charge as Principal of the respective school. The undersigned has been performing in this school as Principal for planning the administrative measures as per directives of the department. The Honorable DEO(M) Mardan has been in regular contact for guidance and due compliance for running the school as smoothly as possible. The input in this regard provided by the Honorable DEO(M) Mardan is highly appreciated and has made my job very easy and comfortable for me as Head of the School.

Unfortunately, on 17.08.2020, Mr. Sabir Hussain (SSS Physics) was also adjusted on the same post of Principal B-18 at GHSS Khadi Killi vide secretary office order No. SO(SM)E&SED/7-1/2020/POSTING/TRANSFER/GENERAL DATED Peshawar the august 17, 2020 with the remarks that the adjustment is ordered against the vacant post (annex3). In fact, this post was **NOT** vacant and charge of the post of Principal B-18 was already taken by the undersigned as recommended of the KP Public Service Commission. The order of adjustment was issued in respect of the undersigned and his proper taking over charge with due intimation to all the concerned authorities, including even the proper Pay release order by the DEO(M) Mardan. (annex-4)

The same information of was respectfully communicated to Mr. Sabir Hussain (SSS Physics) but, disrupting the official norms and values of the department, he took over / received his charge as Principal of the school from a teacher in absence of the undersigned against the **FILLED POST** as per order of the worthy Secretary office. The proper procedure was to adopt that he should have brought this matter into the notice of the worthy Secretary E&SE for resolving the issue in light of E&D rules and departmental procedure instead of committing "misconduct" of illegal taking over charge from a teacher in spite of the sitting Principal of the school, whose adjustment has already been issued by the competent authority before order of the Mr. Sabir Hussain SSS Physics (Teaching Cadre). An explanation has also been called from the said teacher for his misconduct of using illegal power which is tantamount to interference in the official matters.

ATTESTED

In light of the above, the following is therefore brought into the notice of your good self:

1. The post of Principal B-18 at GHSS Khadil Killi is NOT VACANT and has been filled by your worthy office order of adjustment of the undersigned as referred above on **06 august 2020**.
2. Proper Pay release in respect of the undersigned has already issued by the Honorable DEO Male Mardan vide. No.4023-24 dated: 12.08.2020 and all matters in this regard with DAO Mardan have already been settled in light of your office order.
3. The undersigned has commenced his duty as Principal of the school on 06.08.2020.
4. The undersigned has neither applied for transfer nor knows about any development in this regard. The transfer of the undersigned and adjustment order of Mr. Sabir Hussain SSS Physics is absolutely out of my knowledge.
5. Mr. Sabir Hussain SSS Physics adjustment was issued on **17 august 2020**.
6. The undersigned has not signed any document of taking/receiving the charges.
7. The illegal way adopted by Mr.Sabir Hussain SSS Physics for taking over charge from a teacher against the filled post is totally against the conduct rules and is violation of the departmental procedure in such issues.
8. The SSS Physics is purely a teaching cadre post for facilitating the students in teaching of Science subjects instead of serving on administrative posts. On the other hand, the undersigned is a **recommended of the KP Public Service Commission** for purely administrative post as Principal.
9. The Transfer order in respect of Mr Sabir Hussain SSS Physics is totally against the transfer policy of the department in all respects of tenure etc.
10. The undersigned therefore appeals that transfer order of Mr. Sabir Hussain SSS Physics (Teaching Cadre) may be canceled and his subsequent illegal act of taking over charge from a teacher, instead of the undersigned, may be passed through official investigation as per E&D rules and Conduct rules thereof for subsequent procedure adopted by him in this regard

Keeping in view of the above facts, the appeal of the undersigned may sympathetically be considered in light of the rules and departmental procedure please.



Mr. Javed Iqbal
Principal GHSS Khadi Killi
Contact No: 03453200931

gc

PRINCIPAL
G.H.S.S Khadi Killi
Mardan



ATTESTED

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Annex F"



ESTA CODE

**ESTABLISHMENT CODE KHYBER PAKHTUNKHWA
(REVISED EDITION) 2011**

**A COMPENDIUM OF LAWS, RULES AND INSTRUCTIONS
RELATING TO THE TERMS AND CONDITIONS
OF PROVINCIAL CIVIL SERVANTS**

**COMPILED BY;
(O&M) SECTION
ESTABLISHMENT & ADMINISTRATION DEPARTMENT**

ATTESTED

ATTESTED

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Posting and Transfer

Statutory Provision.

Section 10 of the NWFP Civil Servants Act, 1973.

Posting and Transfer. Every civil servant shall be liable to serve anywhere within or outside the Province, in any post under the Federal Government, or any Provincial Government or Local authority, or a Corporation or body set up or established by any such Government:-

Provided that nothing contained in this section shall apply to a civil servant recruited specifically to serve in a particular area or region;

Provided further that, where a civil servant is required to serve in a post outside a service or cadre, his terms and conditions of service as to his pay shall not be less favourable than those to which he would have been entitled if he had not been so required to serve.

Posting/transfer policy of the Provincial Government.

- i) All the posting/transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants
- ii) All Government servants are prohibited to exert political, Administrative or any other pressures upon the posting/transfer authorities for seeking posing/transfers of their choice and against the public interest.
- iii) All contract Government employees appointed against specific posts, can not be posted against any other post.
- iv) Existing tenure of posting/transfer of three (03) years for settled areas and two (02) years for unattractive/hard areas shall be reduced to two (02) years for settled areas, 01½ years for unattractive areas and one year for hard areas.
- v) ⁷⁹[]

79 Para-1(v) regarding months of March and July for posting/transfer and authorities for relaxation of ban deleted vide letter No: SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-6-2008. Consequently authorities competent under the NWFP Government Rule of Business, 1985, District Government Rules of Business 2001, Posting/Transfer Policy and other rules for the time being in force, allowed to make Posting/Transfer subject to observance of the policy and rules.

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- vi) ⁸⁰While making posting/transfers of officers/officials up to BS-17 from settled areas to FATA and vice versa approval of the Chief Secretary, NWFP needs to be obtained. Save Tehsildars/Naib Tehsildars within a division in respect of whom the concerned Commissioner will exercise the same power. Whereas, in case of posting/transfer of officers in BS-18 and above, from settled areas to FATA and vice versa, specific approval of the Governor, NWFP shall be obtained.

Provided that the power to transfer Political Tehsildars and Political Naib Tehsildars within FATA between different divisions shall rest in Additional Chief Secretary FATA.

- vi (a) All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for at least eighteen months in each grade. This should start from senior most scales/grades downwards in each scale/grade of each cadre.
- vii) Officers may be posted on executive/administrative posts in the Districts of their domicile except District Coordination Officers (D.C.Os) and DPOs/Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where the Police Station (Thaana) of his area/residence is situated.
- viii) No posting/transfers of the officers/officials on detailment basis shall be made.
- ix) Regarding the posting of husband/wife, both in Provincial services, efforts where possible would be made to post such persons at one station subject to the public interest.
- x) All the posting/transferring authorities may facilitate the posting/transfer of the unmarried female government Servants at the station of the residence of their parents.
- xi) Officers/officials except DCOs and DPOs/SPs who are due to retire within one year may be posted on their option on posts in the Districts of their domicile and be allowed to serve there till the retirement

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⁸¹DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales;

- xii) In terms of Rule 17(1) and (2) read with Schedule-III of the NWFP Government Rules of Business 1985, transfer of officers shown in column 1 of the following table shall be made by the authorities shown against each officer in column 2 thereof:

Outside the Secretariat	
1. Officers of the all Pakistan Unified Group i.e. DMG, PSP including Provincial Police Officers in BPS-18 and above.	Chief Secretary in consultation with Establishment Department and Department concerned with the approval of the Chief Minister.
2. Other officers in BPS-17 and above to be posted against scheduled posts, or posts normally held by the APUG, PCS(EG) and PCS(SG).	-do-
3. Heads of Attached Departments and other Officers in B-19 & above in all the Departments.	-do-
In the Secretariat	
1. Secretaries	Chief Secretary with the approval of the Chief Minister.
2. Other Officers of and above the rank of Section Officers:	
a) Within the Same Department	Secretary of the Department concerned.
b) Within the Secretariat from one Department to another.	Chief secretary/Secretary Establishment.
3. Officials up to the rank of Superintendent:	Secretary of the Department concerned.
a) Within the same Department	Secretary of the Department in consultation with Head of Attached Department concerned.
b) To and from an Attached Department	
c) Within the Secretariat from one Department to another	Secretary (Establishment)

- xiii) While considering posting/transfer proposals all the concerned authorities shall keep in mind the following:

- a) To ensure the posting of proper persons on proper posts, the Performance Evaluation Report/annual confidential reports, past and present record of service, performance on post held presently and in the past and general reputation with focus on the integrity of the concerned officers/ officials be considered.
- b) Tenure on present post shall also be taken into consideration and the posting/transfers shall be in the best public interest.

ATTESTED

ATTESTED

xiv) Government servants including District Govt. employees feeling aggrieved due to the orders of posting/transfer authorities may seek remedy from the next higher authority / the appointing authority as the case may be through an appeal to be submitted within seven days of the receipt of such orders. Such appeal shall be disposed of within fifteen days. The option of appeal against posting/transfer orders could be exercised only in the following cases.

- i) Pre-mature posting/transfer or posting transfer in violation of the provisions of this policy.
- ii) Serious and grave personal (humanitarian) grounds.

2. To streamline the postings/transfers in the District Government and to remove any irritant/confusions in this regard the provision of Rule 25 of the North West Frontier Province District Government Rules of Business 2001 read with schedule - IV thereof is referred. As per schedule-IV the posting/transferring authorities for the officers/officials shown against each are as under:-

S.No.	Officers	Authority
1.	Posting of District Coordination Officer and Executive District Officer in a District.	Provincial Government.
2.	Posting of District Police Officer.	Provincial Government.
3.	Other Officers in BPS-17 and above posted in the District.	Provincial Government.
4.	Official in BPS-16 and below	Executive District Officer in consultation with District Coordination Officer.

3. As per Rule 25(2) of the Rules mentioned above the District Coordination Department shall consult the Government if it is proposed to:

- a) Transfer the holder of a tenure post before the completion of his tenure or extend the period of his tenure.
- b) Require an officer to hold charge of more than one post for a period exceeding two months.

4. I am further directed to request that the above noted policy may be strictly observed/implemented.

5. All concerned are requested to ensure that tenures of the concerned officers/officials are invariably mentioned in summaries submitted to the Competent Authorities for Posting/Transfer.

(Authority: Letter No: SOR-VI/E&AD/1-4/2003 dated 24-6-2003).

TESTED

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Annex G 1

PLD 2013 Supreme Court 195

Present: Iftikhar Muhammad Chaudhry, C.J., Jawwad S. Khawaja and Khilji Arif Hussain, JJ

Syed MAHMOOD AKHTAR NAQVI and others---Petitioners

Versus

FEDERATION OF PAKISTAN and others---Respondents

[Petition by Ms. Anita Turab for protection of Civil Servants: In re]

Constitution Petitions Nos.23 and 11, Criminal Original Petitions Nos.23, 24 and 27, H.R.C. No. 14427-P, C.M.As. Nos. 1575, 1611, 1792, 197-K and 231-K and Criminal Miscellaneous Application No.587 of 2012 in Criminal Original Petition No. 24 of 2012 in Constitution Petition No.11 of 2012.

(a) Civil Servants Act (LXXI of 1973)---

---Ss. 4, 5, 9 & 10---Civil Servants (Appointment, Promotion and Transfer) Rules, 1973---Constitution of Pakistan, Arts. 9, 14, 18 & 184(3)---Constitutional petition under Art. 184(3) of the Constitution seeking elaboration of constitutional and legal safeguards relating to the working of civil servants---Maintainability---Matter of tenure, appointment, posting, transfer and promotion of civil servants could not be dealt with in an arbitrary manner; it could only be sustained when it was in accordance with the law---Decision which deviated from the accepted or rule-based norm without proper justification, could be tested on the touchstone of a manifest public interest---Fundamental rights of civil servants, inter alia, under Arts.9, 14 & 18 of the Constitution were aspects arising in the present constitutional petition---Constitutional petition was maintainable.

Tariq Aziz-ud-Din's case 2010 SCMR 1301; Syed Yousaf Raza Gillani v. Assistant Registrar PLD 2012 SC 466 and Mehmood Akhtar Naqvi v. Federation of Pakistan, Constitution Petition No.5 of 2012 ref.

(b) Civil Servants Act (LXXI of 1973)---

---S.16---Constitution of Pakistan, Arts. 5 & 184(3)---Civil servant, duties of---Non-subservience to political executive and impartiality---Scope---Although civil servants did have a duty to follow the policy guidelines and directions of the political executive yet, because of Art.5 of the Constitution, their foremost duty was "obedience to the Constitution and the law", not unthinking obedience to all directives (right or wrong) issued from the political executive---Civil servants were public servants and were, therefore, meant to take decisions only in accordance with law in the public interest---Civil servants in their capacity as advisors in decision making or as administrators and enforcers of law, were not subservient to the political executive---Civil servants were under an obligation to remain compliant with the Constitution and law, hence they were not obliged to be servile or unthinkingly submissive to the political executive---Civil servants to give advice in the best public interest and were to administer the law impartially being incharge of the machinery of the State.

Quaid-e-Azam Mohammad Ali Jinnah Speeches as Governor General of Pakistan 1947-48, Sang-e-Meel Publications, Lahore: 2004 ref.

(c) Civil Servants Act (LXXI of 1973)---

---Ss. 3 & 5---Rules of Business, (1973), R. 5(10)---Appointment and conditions of service of civil servants---Transaction of business---Civil servant, opinion of---Scope---Implementation of policy or directives, might be required in some cases notwithstanding the considered views of a civil servant to the contrary, however in such an event, the civil servant should record his/her honest and considered opinion without fear---Decisions violating the law relating to appointment and terms and conditions of service of civil servants which were manifestly wrong and were likely to cause gross injustice or undue hardship should be considered important enough for the purpose of R. 5(10) of Rules of Business, (1973).

(d) Civil Servants Act (LXXI of 1973)---

---Preamble---Object of civil Servant Act, 1973---Parliament had enacted Civil Servants Act, 1973 for providing meaningful legal guarantees to civil servants and doing away with arbitrariness---Object of Civil Servants Act, 1973 was to legally "regulate the appointment of persons to, and the terms and conditions of service of persons in, the service of Pakistan" (Preamble)---Rule of law was the key idea reflected in the whole scheme of the Act.

(e) Civil Servants Act (LXXI of 1973)---

---Ss. 4, 5, 9 & 10---Civil Servants (Appointment, Promotion and Transfer) Rules, 1973---Constitution of Pakistan, Art. 184(3)---Constitutional petition under Art. 184(3) of the Constitution seeking elaboration of constitutional and legal safeguards relating to the working of civil servants---Tenure, appointment, promotion and posting/transfer of civil servants---Favoritism/discouragement of merit---Effect---Tenure, appointment, promotion and posting/transfer were of utmost importance in the civil service, and if same were made on merit in accordance with definite rules, instructions etc., they would rightly be considered and treated as part of the terms and conditions of service of a civil servant; however, where rules and instructions were deviated from and as a result merit was discouraged on account of favoritism, sifarish or considerations other than merit, it should be evident that the civil service would not remain independent or efficient.

(f) Civil Servants Act (LXXI of 1973)---

---Ss. 5 & 11---Civil Servants (Appointment, Promotion and Transfer) Rules, 1973---Civil Servants (Efficiency and Discipline Rules), 1973---Constitution of Pakistan, Art. 184(3)---Appointment and removal of civil servants---Principles---Whenever there were statutory provisions or rules or regulations which governed the matter of appointments of civil servants, the same must be followed, honestly and scrupulously---Even where there were no explicit rules governing the appointment process, and appointments were to be made in the exercise of discretionary powers, such discretion must be employed in a structured, transparent and reasonable manner and in the public interest---Appointing authorities could not be allowed to exercise discretion at their whims, or in an arbitrary manner; rather they were bound to act fairly, evenly and justly and their exercise of power was judicially reviewable---Removal and dismissal of civil servants from service was not left to anyone's whims and caprice and it was governed by rules and regulations---Anachronistic concept where government servants held office during the pleasure of the Authority had no place in a dispensation created and paid for by the people.

Tariq Aziz-ud-Din's case 2010 SCMR 1301; Corruption of Hajj Arrangement's case PLD 2011 SC 963 and Muhammad Yasin v. Federation of Pakistan PLD 2012 SC 132 ref.

(g) Civil Servants Act (LXXI of 1973)---

---S. 9---Constitution of Pakistan, Art. 184(3)---Promotion of civil servants---Discretion---Principles---Discretion in matters of promotion must be exercised fairly and in a transparent manner---Such discretion had to be understood within the four corners of the concept of rule of law upon which the system of governance was founded---Every Authority in the State was bound to obey the dictates of the law and had no personal or absolute discretion.

ANNEXED

Tariq Aziz-ud-Din's case 2010 SCMR 1301 ref.

(h) Civil Servants Act (LXXI of 1973)---

---Ss. 4 & 10---Constitution of Pakistan, Art. 184(3)---Tenure, posting and transfer of civil servants---Principles---When the ordinary tenure for a posting had been specified in the law or rules made thereunder, such tenure must be respected and could not be varied, except for compelling reasons, which should be recorded in writing and were judicially reviewable---Transfers of civil servants by political figures which were capricious and were based on considerations not in the public interest were not legally sustainable.

Corruption of Hajj Arrangement's case PLD 2011 SC 963; Zahid Akhtar v. Government of Punjab PLD 1995 SC 530 and Farukh Gulzar v. Secretary Local Government and Rural Development Department, Lahore and 2 others 1998 SCMR 2222 ref.

(i) Civil Servants Act (LXXI of 1973)---

---S.16---Constitution of Pakistan, Arts. 5 & 184(3)---Civil servant, duty of---Non-compliance with illegal orders of superiors---Scope---Duty of public officers was to independently discharge their functions and not be influenced by "dictatorial misuse of powers" at the hands of political figures---Civil servants were not bound to obey orders from superiors which were illegal or were not in accordance with accepted practices and rule-based norms; instead, in such situations, they must record their opinion and, if necessary, dissent---Compliance with illegal orders of superiors was not justified on the basis of having been issued from higher authority as it was the law and the Constitution which must be obeyed--Illegal orders (of superiors) could not be defended on the plea that they could expose the concerned government servant to the risk of disciplinary action.

Syed Nazar Abbas Jafri v. Secretary to the Government of the Punjab and another 2006 SCMR 606; Province of Punjab v. Azhar Abbas 2002 SCMR 1; Samiullah Khan Marwat v. Government of Pakistan 2003 SCMR 1140; Iqbal Hussain v. Province of Sindh 2008 SCMR 105; Human Rights Cases Nos.4668 of 2006, 111 of 2007 and 15283-G of 2010 PLD 2010 SC 759 and Zahid Akhtar v. Government of Punjab PLD 1995 SC 530 ref.

(j) Civil Servants Act (LXXI of 1973)---

---S.10---Constitution of Pakistan, Art. 184(3)---Posting of a civil servant as Officer on Special Duty (OSD)---Principles---Officer should not be posted as Officer on Special Duty (OSD) except for compelling reasons, which must be recorded in writing and were judicially reviewable---If at all an officer was to be posted as Officer on Special Duty (OSD), such posting should be for the minimum period possible and if there was a disciplinary inquiry going on against him, such inquiry must be completed at the earliest.

Corruption of Hajj Arrangement's case PLD 2011 SC 963; Mir Shah Nawaz Marri v. Government of Balochistan and others 2000 PLC (C.S.) 533; Syed Ajmal Hussain Bokhari v. Commissioner, Rawalpindi 1997 PLC (C.S.) 754; Sajjad Ahmad Javed Bhatti v. Federation of Pakistan 2009 SCMR 1448 and Lt. Col. (R.) Abdul Wajid Malik v. Government of the Punjab 2006 SCMR 1360 ref.

(k) Civil Servants Act (LXXI of 1973)---

---S.16---Constitution of Pakistan, Arts. 189, 190 & 204(2)(a)---Decision of---Supreme Court---Binding nature of---Scope---Decision given by the Supreme Court on a point of law would be binding on concerned departmental functionaries who would be obliged to apply such legal principle in other similar cases regardless of whether or not a civil servant had litigated the matter in his own case---In view of Art.189 and 190 of the Constitution, a civil servant would be entitled to make a departmental representation or initiate legal proceedings before a competent forum to enforce a legal principle enunciated by the Supreme Court---Failure of a State functionary to apply a legal principle which was clearly and unambiguously attracted to a case, might expose him to proceedings under Art.204(2)(a) of the Constitution.

Al-Jehad Trust v. Federation of Pakistan PLD 1997 SC 84; Hameed Akhtar Niazi v. The Secretary Establishment Division 1996 SCMR 1185 and Baaz Muhammad Kakar v. Federation of Pakistan PLD 2012 SC 870 ref.

(l) Civil Servants Act (LXXI of 1973)---

---Ss. 4, 5, 9 & 10---Constitution of Pakistan, Art. 184(3)---Tenure, appointments, promotions and transfers of civil servants---Discretion of Executive Authority---Interference by courts---Scope---Responsibility of deciding suitability of an appointment, posting or transfer fell primarily on the executive branch of the State which comprised of both the political executive and civil servants---Decision making in relation to tenure, appointments, promotions and transfers remained rule-based and was not susceptible to arbitrariness or absolute and unfettered discretion---Courts ordinarily would not interfere in the functioning of the executive as long as it adhered to the law and established norms and acts in furtherance of its fiduciary responsibility.

Petitioners in person.

Hafiz S.A. Rehman, Sr. Advocate Supreme Court: Amicus Curiae.

Abdul Fateh Malik, A.G., Adnan Karim, A.A.-G., Ali Sher Jakhriani, AIG and Maqsood Ahmed, DSP for Government of Sindh.

Syed Arshad Hussain Shah, A.A.-G. for Government of Khyber Pakhtunkhwa.

Azam Khattak, A.A.-G. for Government of Balochistan.

Jawad Hassan, A.A.-G. for Government of Punjab.

Date of hearing: 18th October, 2012.

ATTESTED

JUDGMENT

JAWWAD S. KHAWAJA, J.---Many centuries before the term 'good governance' became a catch-phrase, we find a remarkably eloquent exposition of the principles of good governance in the Epistle of Hazrat Ali to Malik ibn Ashtar, the Governor of Egypt. The revered Khalifa, may Allah be pleased with him, is reported to have said: ".....give careful consideration to the selection of ... officers. Confirm them in their appointments after approval, apprenticeship and probation. Never select men for responsible posts either out of any regard for personal connections or under any influence, for, that might lead to injustice and corruption.... select for higher posts men of experience, men firm in faith ... Such men will not fall an easy prey to temptations and will discharge their duties with an eye on the abiding good of others". The law and the Constitution of Pakistan, with the aim of furthering the welfare of the people of Pakistan, articulate the same principles. The truth is that principles pertaining to the setting up of a just and constitutional government are eternal, not peculiar to our times. Our law, Constitution and courts only apply these universal and time-tested principles to the prevalent situation. In this public interest case seeking elaboration of constitutional and legal safeguards relating to the working of civil servants, we reaffirm these eternal principles which have also been stressed by us in cases decided earlier.

2. The background to this matter is that Suo Motu Case No.3 of 2012 was initiated on the basis of broadcasts on different TV channels on 25-2-2012. In these broadcasts, Syeda Wahida Shah, a candidate of the Pakistan Peoples Party for bye-election to PS-53 (Tando Muhammad

Khan) was shown slapping a member of the polling staff. The Suo Motu case was concluded vide order dated 12-3-2012. Ms. Anita Turab, who is a civil servant in BS-19, presently working in the Ministry of Interior, filed an application in the aforesaid Suo Motu case. Since the case stood concluded, the application was ordered on 12-3-2012 to be registered as a petition under Article 184 (3) of the Constitution. It is this petition which is being decided through the present order.

3. The grievance of the petitioner set out in her petition can be summarized. Firstly, she seeks that the standing of the civil service be restored as service of the State and not the service of any transient government. To achieve this object, her submission is that unlawful political interference in the independent and legitimate functioning of civil servants be stopped. Secondly, the petitioner seeks corrective institutional measures to revert the civil service to rule-based management practices in accordance with the letter and spirit of applicable laws, rules and precedents of this Court.

4. On 12-3-2012, we had directed the Secretary Establishment Division, Government of Pakistan, the Chief Secretaries of the four Provinces and the Chief Commissioner, Islamabad Capital Territory to submit their comments. It was noted in the said order that civil servants who act according to law, at times, have to face hardship in the form of immediate transfer or posting as Officers on Special Duty (OSD) even before the completion of their tenure. It was also noticed that frequent transfers, postings and disciplinary proceedings are taken in violation of the law, rules and regulations.

5. The above referred functionaries comprised as a Committee, have submitted their report which includes tentative recommendations. Amongst other things, the Committee has recommended that "[p]ostings and transfers be made on merit", "tenures for various categories of posts be fixed" and that "[n]o civil servant should be posted as OSD for purposes of parking of officers who are unwanted, or, who are not susceptible to pressures." The Committee further recommends that "[a] civil servant should be placed under suspension only by the competent authority after initiation of disciplinary proceedings; and... Officers taken on deputation/borrowed from other tiers of the government should carry the requisite experience and seniority for specific jobs." According to the petitioner, many of the Committee's recommendations are already covered by existing law, rules and regulations, particularly in matters relating to tenure, appointment, transfer and posting of civil servants. There is no dispute or contention that such recommendations must indeed be implemented with immediate effect as a necessary concomitant to good governance. Some other recommendations made by the Committee require legislation or rule making which, necessarily will need to be undertaken by the legislature and/or the competent rule making authority and not by the Court.

6. The petitioner being a civil servant herself has requested revival of the independent, impartial and professional status of the civil service as an institution and to affirm its decision-making authority in furtherance of the rule of law. The petitioner's further grievance is that legal and constitutional safeguards meant to protect the civil service from excessive political interference are being systemically breached. With its safeguards thus withered, the service is growing inefficient and demoralized and with it, the machinery of the State, mandated to enforce good governance, rule of law and fundamental rights of the people of Pakistan, is failing.

7. The petition has been held maintainable because the situation portrayed does raise a question of public importance with reference to the enforcement of fundamental rights. In our constitutional scheme of governance, the importance of such a civil service, which is law-abiding and itself legally protected, cannot be over emphasized. "Good governance", this Court has recently observed, "is largely dependent upon [an] upright, honest and strong bureaucracy. [The] Civil service is the back bone of our administration." per Chaudhry Ijaz Ahmad, J. in Tariq Aziz-Din's case (2010 SCMR 1301). Additionally, the fundamental rights of civil servants, inter alia, under Articles 9, 14 and 18 of the Constitution are also aspects arising in this Constitution Petition. The enforcement of fundamental rights is primarily the responsibility of the Executive branch of the State and civil servants constitute that essential component of the Executive who operate the executive machinery. A duty is thus cast both on the civil service and on the political executive to ensure the effectiveness (in all respects) of the civil service.

8. It is not in contention that civil servants are public servants and are, therefore, meant to take decisions only in accordance with law in the public interest. In their capacity as advisors in decision making or as administrators and enforcers of law, they are not subservient to the political executive. It is their obligation to remain compliant with the Constitution and law. Hence they are not obliged to be servile or unthinkingly submissive to the political executive. One of their prime duties is to give advice in the best public interest and to administer the law impartially being in charge of the machinery of the State. In this regard, the address made by Quaid-i-Azam Mohammad Ali Jinnah to the members of the civil service at Peshawar on 14th April, 1948 is most relevant. Quaid-i-Azam instructed them not to be "influenced by any political pressure, by any political party or individual politician." While urging them to loyally and faithfully serve whichever government came to power "in the ordinary constitutional course", he also reminded them of the need for "fearlessly, maintaining [their] high reputation, prestige, honour and the integrity of [their] service." Noting that pressurizing civil servants was, even in those early days, "a very common fault of politicians", he warned politicians that such behaviour would lead to "nothing but corruption, bribery and nepotism which is a horrible disease..." Ultimately, he urged both politicians and civil servants to "understand [their] own sphere of duty and responsibility and act with others harmoniously and in complete cooperation." Yet, being fully aware that real life was never ideal, he forewarned the civil servants that "you may even be put to trouble not because you are doing anything wrong but because you are doing right. Sacrifices have to be made, and I appeal to you, if need be, to come forward and make the sacrifice..." (Quaid-e-Azam Mohammad Ali Jinnah, Speeches as Governor General of Pakistan 1947-48, Sang-e-Meel Publications, Lahore 2004).

9. These should, indeed, be the guiding principles informing the relationship between the civil service and the political executive - the two limbs of the Executive branch of government, envisaged in the Constitution. Equally so, these principles should inform the judiciary's interpretation of the Articles of the Constitution and legal provisions which relate to the employment of persons in the service of Pakistan. We reaffirm that while civil servants do have a duty to follow the policy guidelines and directions of the political executive yet, because of Article 5 of the Constitution, just like other citizens, their foremost duty is "obedience to the Constitution and the law", not unthinking obedience to all directives (right or wrong) issuing from the political executive. In this context, Rule 5(10) of the Rules of Business, 1973 framed by the Federal Government in accord with Articles 90 and 99 of the Constitution, may be examined: "When the Secretary submits a case to the Minister, the latter may accept the proposal or views of the Secretary or may over-rule him. The Secretary will normally defer to the decision of the Minister and implement it. In case, however, the Secretary feels that the decision of the Minister is manifestly wrong and will cause gross injustice or undue hardship, he may state his reasons and re-submit the case to the Minister. If the Minister still adheres to his earlier decision and the matter is important enough, the Secretary shall request the Minister to refer the case to the Prime Minister and the Minister shall so refer the case for orders of the Prime Minister. If the case is not referred to the Prime Minister, the Secretary shall submit it directly to the Prime Minister with observations of the Minister-in-Charge." In other words, implementation of policy or directives, in some cases may be required notwithstanding the considered views of a civil servant to the contrary. In such event, however, the civil servant should record his/her honest and considered opinion without fear. Decisions violating the law relating to appointment and terms and conditions of service of civil servants which are manifestly wrong and are likely to cause gross injustice or undue hardship should be considered important enough for the purpose of Rule 5(10) *ibid*.

10. It is worth noting that the Constitutions of 1956 and 1962 contained chapters outlining certain safeguards for the civil service. In the 1973 Constitution, the framers omitted a similar chapter from the Constitution and shifted the onus to ordinary legislation. The Law Minister at the time, who was steering the Constitution Bill informed the Constituent Assembly that in the past, constitutional protection for civil servants had been granted "because those who served came from outside and they needed these protections in respect of service". However, since now "this country [was] being run by the leaders of the people" such protections were no more deemed necessary. The purpose of this change, therefore, was to "[break] away from the past colonial traditions" and to emphasize the point that civil servants were not entitled to "any superior or higher status" compared to other citizens. Another reason the Law Minister gave was that the "Constitution is the basic document providing the fundamentals and this matter was not so fundamental as to be provided in the Constitution." (Parliamentary Debates, 31st December, 1972 and 19th February, 1973). It was therefore decided that, as stated in Articles 240, 241 and 242 of the Constitution, the matter would be dealt with through statutes. Such statutes were subsequently passed and include the Civil Servants Act, 1973. It may be emphasized that whatever else the intent behind these changes may have been, it could not have been meant to subjugate civil servants to constantly changing political imperatives. The intent of the Constitution cannot but be a fuller realization of the goal set out in the speech of the country's founding father quoted earlier: "fearlessly, maintaining [the] high reputation, prestige, honour and the integrity of [the civil] service."

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11. It was in this spirit, i.e. providing meaningful legal guarantees to civil servants and doing away with arbitrariness, that Parliament enacted statutes such as the Civil Servants Act, 1973. The very object of this statute is to legally "regulate the appointment of persons to, and the terms and conditions of service of persons in, the service of Pakistan" (Preamble). The rule of law is the key idea reflected in the whole scheme of the statute. This impression is textually reinforced by the express stipulation that appointment of civil servants shall be made only "in the prescribed manner" (S. 5), that the terms and conditions shall be only such as are "provided in [the] Act and the Rules" [S. 3(1)] and not be "varied to his disadvantage" [S. 3(2)] and that promotions shall only be made on the basis of objective criteria such as "merit" [S. 9(2)(a)] and "seniority-cum-fitness". [S.9(2)(b)].

12. This Court, in a number of precedents has, interpreted and emphasized these very principles, some of which need to be reiterated at this point. Before that, however, we may note the precept and rule of public trust which forms the basis of this area of the law. This court has repeatedly observed that "functionaries of the State are fiduciaries of the people and ultimately responsible to the people who are their pay masters." [Syed Yousaf Raza Gillani v. Assistant Registrar, (PLD 2012 SC 466) affirming Muhammad Yasin v. Federation of Pakistan]. Most recently, in the case relating to dual nationality of Parliamentarian, we have reiterated that "all State authority is in the nature of a 'sacred trust' and its bearers should therefore be seen as fiduciaries" (Mehmood Akhtar Naqvi v. Federation of Pakistan, Const. P. 5/2012). One of the implications of this concept, highlighted in the case-law considered below, is that the matter of tenure, appointment, posting, transfer and promotion of civil servants cannot be dealt with in an arbitrary manner; it can only be sustained when it is in accordance with the law. Moreover, the use of the words 'in the public interest' in such matters are not fatuous or pointless, but emphasise the fiduciary nature of orders relating to tenure, posting etc. Thus a proposed decision which deviates from the accepted or rule-based norm without proper justification, can be tested on the touchstone of a manifest public interest.

13. Tenure, appointment, promotion and posting/transfer are of utmost importance in the civil service. If these are made on merit in accordance with definite rules, instructions etc., the same will rightly be considered and treated as part of the terms and conditions of service of a civil servant. If, however, rules and instructions are deviated from and as a result merit is discouraged on account of favoritism, sifarish or considerations other than merit, it should be evident the civil service will not remain independent or efficient. It is necessary once again, to hark back to the considerations set out in the speech of Quaid-i-Azam and the eternal wisdom reflected in the Epistle of Hazrat Ali, may Allah be pleased with him, cited at the start of this opinion. It is also relevant to note that the principles of good governance are already envisioned in the Constitution and are also encoded in statutes such as the Civil Servants Act, 1973, the Civil Servants (Appointment, Promotion and Transfer) Rules, 1973 and other rules made under the aforesaid Act and in regulations and instructions given in the Civil Establishment Code (Estacode). It is, however, apparent from precedent and civil service matters coming up before Service Tribunals and this Court that problems/difficulties arise for civil servants when the rules of good governance so encoded are breached and the reason for such breach appears to be abuse of discretion. We are aware that matters relating to tenure etc. cannot be put in a strait-jacket and that there is to be an element of flexibility. A balance between the competing pulls of discretion and rule based decision making is a fine one where perception of fairness and even handed treatment is of utmost importance. It is for this reason that transparency in decisions relating to tenure etc. are required to be entrenched and cemented to assure the quality, effectiveness and morale of the civil service. Since executive decisions generally are subject to judicial review, the assurance of transparency is itself likely to eliminate decision making based on considerations other than merit. We have referred to accepted principles and rules above and may now advert to certain relevant rulings earlier rendered by this Court.

A - On the Issue of Appointments and Removals

14. In a number of judgments, the courts have clarified that whenever there are statutory provisions or rules or regulations which govern the matter of appointments, the same must be followed, honestly and scrupulously. In the Corruption of Hajj Arrangements' case (PLD 2011 SC 963) and Tariq Aziz-ud-Din's case *ibid*, it has been clarified that even where there are no explicit rules governing the appointment process, and appointments are to be made in the exercise of discretionary powers, such discretion must be employed in a structured and reasonable manner and in the public interest. Appointing authorities cannot be allowed to exercise discretion at their whims, or in an arbitrary manner; rather they are bound to act fairly, evenly and justly and their exercise of power is judicially reviewable. And in Muhammad Yasin v. Federation of Pakistan (PLD 2012 SC 132), we have clarified that, when called upon to do so, the Courts are "duty bound to examine the integrity of the selection process", although they "will not engage in any exhaustive or full-fledged assessment of the merits of the appointee nor [...] seek to substitute [their] own opinion for that of the Executive." It may also be noted that just like the appointment of civil servants, their removal and dismissal from service has not been left to anyone's whims and caprice. It is governed by rules and regulations, amongst them the Civil Servants (Efficiency and Discipline Rules), 1973. Indeed, the anachronistic concept where government servants held office during the pleasure of the Crown has no place in a dispensation created and paid for by the people.

B - On the Matter of Promotions

15. In Tariq Aziz-ud-Din's case, we have dealt with some important facets of the civil service including the exercise of discretion in matters of promotion. Such discretion must be exercised fairly and in a transparent manner. Discretion has to be understood within the four corners of the concept of rule of law upon which our system of governance is founded. Every authority in the State is bound to obey the dictates of the law and has no personal or absolute discretion. It was therefore held that "[t]he right [to be considered for promotion] contemplated under section 9 [of the Civil Servants Act] is neither illusionary nor a perfunctory ritual and withholding of promotion of an officer is a major penalty in accordance with the Civil Servants (Efficiency and Disciplinary) Rules, 1973, therefore, consideration of an officer for promotion is to be based not only on the relevant law and the rules but also to be based on some tangible material relating to merit and eligibility which can be lawfully taken note of."

C - On the Matter of Transfers and Tenure

16. In the Hajj Corruption Case, the Court reiterated its earlier ruling in Zahid Akhtar v. Government of Punjab (PLD 1995 SC 530), where it had been held that "the normal period of posting of a Government servant at a station, according to Rule 21 of the Rules of Business is three years, which has to be followed in the ordinary circumstances, unless for reasons or exigencies of service a transfer before expiry of the said period becomes necessary in the opinion of the competent authority." Furthermore, with regard to transfers of civil servants, this Court has stated that transfers by political figures which are capricious and are based on considerations not in the public interest are not legally sustainable. Farrukh Gulzar v. Secretary Local Government and Rural Development Department, Lahore and 2 others (1998 SCMR 2222). These are principles of law enunciated by this Court and are to be followed in terms of Article 189 of the Constitution. We, however, repeatedly come across violations of such principles. This unnecessarily leads to litigation which, in turn, clogs Courts and Service Tribunals.

D - On the matter of obeying illegal orders from superiors

17. In Syed Nazar Abbas Jafri v. Secretary to the Government of the Punjab and another (2006 SCMR 606), this Court held that the duty of public officers is to independently discharge their functions and not be influenced by "dictatorial misuse of powers" at the hands of political figures. The Court has also emphasized that the appointment and removal of civil servants is not to be politically motivated. Province of Punjab v. Azhar Abbas (2002 SCMR 1). These decisions highlight the concept of a civil service which enjoys certain legal protections and is thus capable of performing its envisioned role as a law-enforcing institution.

18. The compliance of illegal orders of superiors is not justified on the basis of having been issued from higher authority as it is the law and Constitution which must be obeyed. Here it would be relevant to cite the judgment of this Court in Samiullah Khan Marwat v. Government of Pakistan (2003 SCMR 1140) where it was stated: "...the exercise of powers by the public functionaries in derogation to the direction of law would amount to disobey[ing] the command of law and the Constitution..." Furthermore, in the case of Iqbal Hussain v. Province of Sindh (2008 SCMR 105) the Court held that "the compliance of any illegal and arbitrary order is neither binding on the subordinate forums nor valid in the eyes of law." In case the subordinates are directed to implement an illegal order "they should put on record their dissenting note" Human Rights Cases Nos. 4668 of 2006, 1111 of 2007 and 15283-G of 2010 (PLD 2010 SC 759). Similarly, illegal orders cannot be defended on the plea that these could expose the concerned government servant to the risk of disciplinary action. Zahid Akhtar v. Government of Punjab (PLD 1995 SC 530).

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E - On the matter of posting civil servant as Officers on Special Duty (OSD)

19. Ordinarily, no government employee should be posted as OSD except under compelling circumstances. In the Hajj Corruption case, (PLD 2011 SC 963) the Court held: "It is well settled that placing an officer as OSD is tantamount to penalizing him because the expression 'OSD' is not known to either the Civil Servants Act, 1973, or the Civil Servants (Appointment Promotion and Transfer) Rules, 1973." Reference in this regard may also be made to the cases of Mir Shah Nawaz Marri v. Government of Balochistan and others (2000 PLC (C.S) 533), Syed Ajmal Hussain Bokhari v. Commissioner, Rawalpindi (1997 PLC (C.S.) 754), Sajjad Ahmad Javed Bhatti v. Federation of Pakistan (2009 SCMR 1448) and Lt. Col. (R.) Abdul Wajid Malik v. Government of the Punjab (2006 SCMR 1360).

20. The above referred precedents have shaped the contours of the law relating to civil servants and the civil service. In the established tradition of a common law jurisdiction, Article 189 of the Constitution stipulates that, "[a]ny decision of the Supreme Court shall, to the extent that it decides a question of law or is based upon or enunciates a principle of law, be binding on all other courts in Pakistan." As this Court has already held "... the interpretation of the various Articles by this Court becomes part of the Constitution". Al-Jehad Trust v. Federation of Pakistan (PLD 1997 SC 84). Specific to the law relating to civil servants and matters in respect of their service, we have enunciated a principle of law in the case titled Hameed Akhtar Niazi v. The Secretary Establishment Division (1996 SCMR 1185) holding that a decision given by this Court on a point of law will be binding on concerned departmental functionaries who will be obliged to apply such legal principle in other similar cases regardless of whether or not a civil servant has litigated the matter in his own case. We are conscious that in some instances the application of a legal principle enunciated in a precedent may be possible without difficulty or ambiguity, while in other cases there may be some uncertainty in determining if a legal principle is in fact applicable as precedent. It is, however, clear that in view of Articles 189 and 190 of the Constitution, a civil servant will be entitled to make a departmental representation or initiate legal proceedings before a competent forum to enforce a legal principle enunciated by this Court.

21. In appropriate cases the failure of a State functionary to apply a legal principle which is clearly and unambiguously attracted to a case, may expose him to proceedings also under Article 204(2)(a) of the Constitution. This Article, it may be recalled, grants this Court the power to punish for contempt any person who "disobeys any order of the Court". In a recent judgment, the Court has clarified the significance of the law of contempt as an enforcement mechanism. It was held "... the Court, in and of itself, has to pass orders and to require the implementation of its orders; responsibility for implementation has been made obligatory on other organs of the State, primarily the Executive. However, in the unfortunate situation that a functionary of the Executive refuses to discharge his constitutional duty, the Court is empowered to punish him for contempt... Simply put, a government of laws cannot be created or continued with toothless courts and defiant or blithely non-compliant public functionaries". Baaz Muhammad Kakar v. Federation of Pakistan (PLD 2012 SC 870). If there still remains any doubt, let us clarify that those executive functionaries who continue to ignore the Constitution and the law, do so at their own peril.

22. The principles of law enunciated hereinabove can be summarized as under:--

(i) Appointments, Removals and Promotions: Appointments, removals and promotions must be made in accordance with the law and the rules made thereunder; where no such law or rule exists and the matter has been left to discretion, such discretion must be exercised in a structured, transparent and reasonable manner and in the public interest.

(ii) Tenure, posting and transfer: When the ordinary tenure for a posting has been specified in the law or rules made thereunder, such tenure must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable.

(iii) Illegal orders: Civil servants owe their first and foremost allegiance to the law and the Constitution. They are not bound to obey orders from superiors which are illegal or are not in accordance with accepted practices and rule based norms; instead, in such situations, they must record their opinion and, if necessary, dissent.

(iv) OSD: Officers should not be posted as OSD except for compelling reasons, which must be recorded in writing and are judicially reviewable. If at all an officer is to be posted as OSD, such posting should be for the minimum period possible and if there is a disciplinary inquiry going on against him, such inquiry must be completed at the earliest.

23. We are fully conscious that the aforesaid matters relate to decision making and administration of the machinery of the State. As such the responsibility of deciding as to suitability of an appointment, posting or transfer falls primarily on the executive branch of the State which comprises of both the political executive and civil servants. Courts ordinarily will not interfere in the functioning of the executive as long as it adheres to the law and established norms and acts in furtherance of its fiduciary responsibility. However, while hearing this petition we have recognized the need for ensuring that decision making in relation to tenure, appointments, promotions and transfers remains rule based and is not susceptible to arbitrariness or absolute and unfettered discretion.

24. Copies of this judgment shall be sent to the Federal Secretary Establishment, the Chief Secretaries of the Provinces, the Commissioner Islamabad Capital Territory and to the Secretaries of all Federal and Provincial government departments.

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Order accordingly.

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Annex "H"

GOVERNMENT OF PAKISTAN
Cabinet Secretariat
ESTABLISHMENT DIVISION

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No.F.1/11/2012-Lit-IV

Islamabad - the 3rd January, 2013.

OFFICE MEMORANDUM

SUBJECT: ORDER PASSED BY SUPREME COURT OF PAKISTAN IN CONST. PETITION NO.23/2012 FILED BY MS ANITA TURAB AND OTHERS VS. FEDERATION OF PAKISTAN dated 18.10.2012

The undersigned is directed to refer to the subject cited above and to say that the Supreme Court of Pakistan has enunciated certain guiding principles for depoliticizing the public service vide its judgment dated 12-11-2012 passed in the subject case. The operative parts of the judgment given vide para-22 are reproduced as under:-

- i) Appointments, Removals and Promotions: Appointments, removals and promotions must be made in accordance with the law and the rules made thereunder, where no such law or rule exists and the matter has been left to discretion, such discretion must be exercised in a structured, transparent and reasonable manner and in the public interest.
- ii) Tenure, posting and transfer: When the ordinary tenure for a posting has been specified in the law or rules made thereunder, such tenure must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable.
- iii) Illegal orders: Civil servants owe their first and foremost allegiance to the law and the Constitution. They are not bound to obey orders from superiors which are illegal or are not in accordance with accepted practices and rule-based norms; instead, in such situations, they must record their opinion and, if necessary, dissent.
- iv) OSD: Officers should not be posted as OSD except for compelling reasons, which must be recorded in writing and are judicially reviewable. If at all an officer is to be posted as OSD, such posting should be for the minimum period possible and if there is a disciplinary inquiry going on against him, such inquiry must be completed at the earliest.

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GOVERNMENT OF PAKISTAN
Cabinet Secretariat
ESTABLISHMENT DIVISION

Jo.F.1/11/2012-Lit-IV

Islamabad – the 3rd January, 2013.

OFFICE MEMORANDUM

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2. The Supreme Court has further recognized the need for ensuring that decision making in relation to tenure, appointment, removal, promotion and transfer remains ruled based and is not susceptible to arbitrariness or absolute and unfettered discretion.

3. In view of the foregoing, the following guidelines have been circulated vide Establishment Division's O.M.No.4/10/2012-E-2 dated 26th December, 2012 (copy enclosed) with the approval of competent authority for strict compliance of the Supreme Court orders, dated 12.11.2012 while passing any such orders relating to appointment, tenure and transfer of the officers in BS-17 to BS-22:-

- a) The normal tenure specified must be respected and may not be varied except for compelling reasons which should be recorded in writing and would be defensible if subjected to judicial scrutiny.
- b) The officer appointed on a post be allowed to earn at least one Annual Performance Evaluation Report.
- c) The officer should not be posted as OSD except for compelling reasons, usually for training, temporary inefficiency of extreme hardship and transit period for minimum possible time with the reasons to be recorded in writing.
- d) There is no space for unilateral surrender of the officers by Ministries/Divisions/Provincial Governments and they are requested to refrain from this practice. However, even if they intend to change the officer, matter may be taken up with the Establishment Division, in case of APUG and federal employees and with respective Provincial Departments dealing with service matters of the officer, for appropriate action.

4. Attention of all the Ministries/Divisions/Departments/Organizations is also invited to the existing provisions contained in the constitution of Pakistan, 1973, Rules of Business, 1973, Pakistan Penal Code, and Conduct Rules, 1964. The relevant extracts are as under:-

The Constitution of Islamic Republic of Pakistan 1973 In terms of article 240 of the 1973 Constitution the appointment to and the conditions of service of Pakistan are determined inter-alia through the Act of Parliament.

- 4. Right of individuals to be dealt with in accordance with law, etc.
 - (1) To enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Pakistan.
 - (2) In particular:-
 - (a) no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law;
 - (b) no person shall be prevented from or be hindered in doing that which is not prohibited by law; and
 - (c) no person shall be compelled to do that which the law does not require him to do"

9. Security of person. No person shall be deprived of life or liberty save in accordance with law.

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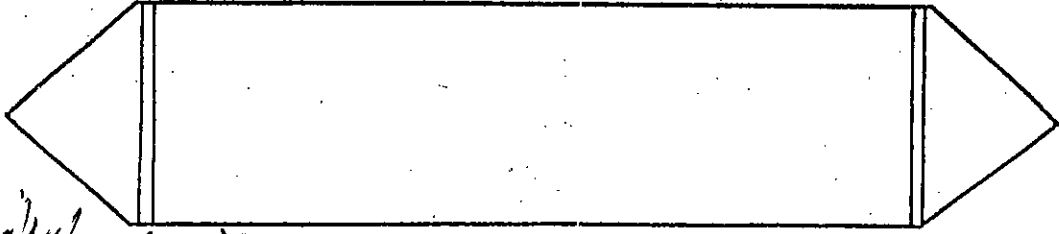
- (1) To enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Pakistan.
- (2) In particular:-
 - (a) no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law;
 - (b) no person shall be prevented from or be hindered in doing that which is not prohibited by law; and
 - (c) no person shall be compelled to do that which the law does not require him to do:

"9. Security of person. No person shall be deprived of life or liberty save in accordance with law"

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جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو رضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دینے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائس پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برادگی 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 کاروائی 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 باختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائد التوائے مقدمہ کے سبب سے دہوگا۔
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 لکھدیا کہ سندر ہے۔

المرقوم 27 ماہ نومبر 2020ء

واہ

بمقام

Amir Kapra کے لئے منظور ہے۔
Amir Kapra

Before the W.P. Service Tribunal, Peshawar

Service Appeal No 2020

Taved Iqbal vs Govt etc


Application for withdrawal of the
appeal with the permission to file
a fresh one.

Respectfully Sheweth:

- ① That the aforesaid appeal is pending adjudication before the
honorable Tribunal today.
- ② That the grounds of the appeal have been addressed
by virtue of Notification dated 21¹²/₂₀ (copy attached)

It is therefore humbly prayed that the instant appeal
may kindly be withdrawn with the permission to file
a fresh one

Dated 14¹/₂₁

Applicant
through
Counsel 

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Javed Iqbal

Vs

Govt of Khyber Pakhtunkhwa & Others

WRITTEN REPLY BY & ON BEHALF OF RESPONDENT NO.3

Respectfully Sheweth:-

Preliminary Objections:-

- (1) The appellant has no cause of action
- (2) The captioned Appeal is not maintainable being barred by law.
- (3) The appellant filed Civil Suit "Javed Iqbal Vs Sabir Hussain" on 22.08.2020 where he got/an ad-interim status quo order upon application under Order-7 Rule-10 by the replying respondent, the same has been returned to the appellant vide Order dated 29.09.2020 (Copies are attached) on 30.09.2020, the appellant assailed the same before the appellate Forum i.e District Judge, Mardan, whereby the Additional Session Judge, Mardan has illegally suspended the impugned transfer order of the appellant despite the clear manifest and unambiguous bar contained in Article 212 of the Constitution of Pakistan, 1973 on 03.12.2020, the Counsel for the appellant requested for withdrawal of Appeal which was dismissed as withdrawn by learned Additional Session Judge, Mardan. (Copies are attached).

It is worth mentioning here that the instant appeal has been filed on 30.11.2020 during the pendency of the appeal referred to herein. All the material facts have deliberately been concealed from this Hon'ble Tribunal and the Hon'ble Tribunal was misguided.

- (4) That on 06.08.2020, two posting/Appointment orders have been issued vide same number and date in first impugned posting order, the name of the appellant has duly been mentioned at Serial No.13 and in the subsequent order of even date and number his name has been duly being mentioned at Serial No.13 but place of posting is (BPS-18) G.H.S.S Ambela Buner which correctly been reported in daily newspaper in vide publication which means that the subsequent transfer order is correct. Astonishingly, the subsequent and correct transfer order has not been impugned in the instant appeal and against the same number departmental appeal has been filed. (Copies attached).
- (5) It is worth to mention here that respondent No.03 has been transferred against vacant post which means that the impugned transfer order has not been implemented.
- (6) That on 18.08.2020, the replying respondent has assumed charge at GHSS Khadi Killi Mardan vide endorsement No.40-49 dated 18.08.2020. On this score alone, the appeal deserve dismissal.
- (7) The appellant has not come to this Hon'ble Tribunal with clean hands, hence not entitled for any relief.
- (8) That U/S-10 of the Civil Servant Act, 1973, a government servant is liable to serve everywhere in the province.
- (9) There is no ill-will or any political motivation in the impugned transfer order and the corrigendum dated 17.08.2020 was for clarification as the appellant has misdirected himself.

ON FACTS:-

1. This para as drafted is not correct, hence denied. The appellant has not took any charge at Govt Higher Secondary School Khadi Killi. The detail has been offered in Para-5 of the preliminary objections.
2. This para pertains to respondent No.1 & 2, hence no need to reply by respondent No.3
3. As drafted is not correct, hence denied. The detailed reply has been offered in Para-5 and 6 of the preliminary objections.

Furthermore, the impugned transfer order and corrigendum was issued in accordance with law and transfer policy.

4. This para pertains to the official respondent, hence need no reply. However, the appellant has not assailed the impugned transfer order dated 06.08.2020 in departmental appeal as well as service appeal as the appeal is not competent.

GROUND:-

A- Does not relate to the answering respondent, hence needs no reply.

B- This para as drafted is not correct, hence denied with vehemence. The notification dated 06.08.2020 is clear and manifest on the subject.

C- This Para is not related to the replying respondents, hence need no reply.

D- Not correct, hence denied. Besides the corrigendum the subsequent order of the even date and number, newspaper report and charge assumptions certificate do support the stance of respondent No.3.

E- This Para is based on self assertion of the appellant. One can find no political consideration in the impugned corrigendum.

F- No correct, hence denied with vehemence. The detailed reply has been offered in the preceding paras.

G- This Para does not relate to the replying respondents.

H- Not correct, hence denied. The detailed reply has been offered in the preceding paras.


I- Not correct, hence denied. The detailed reply has been offered in the preceding paras.

J- Needs no reply.

It is, therefore, prayed that the Appeal may kindly be dismissed being bereft of merits.

Respondent No.3

Through

 21/12/2020

Tariq Kamal

Advocate, Peshawar

Dated:-21.12.2020

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Javed Iqbal

Vs

Govt of Khyber Pakhtunkhwa & Others

AFFIDAVIT

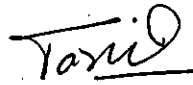
I, Sabir Hussain S/O Munir Khan R/O Said Abad, P/O Pump Koroona, Tehsil Takht Bhai District, Mardan (Respondent No.3), do hereby solemnly affirm and declare on oath that the contents of this **Written Reply** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.


DEPONENT

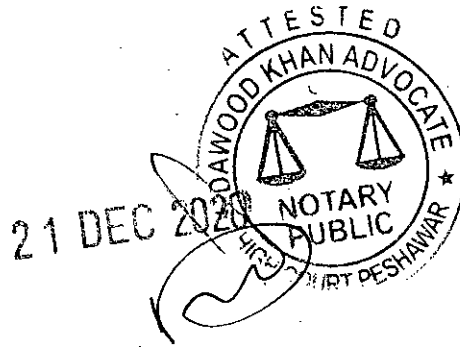
CNIC#16102-9575408-7

Cell#0300-5729054

Identified by


Tariq Kamal 21/12/2020

Advocate, Peshawar



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Javed Iqbal

Vs

Govt of Khyber Pakhtunkhwa & Others

REPLY TO THE APPLICATION FOR SUSPENSION OF
IMPUGNED TRANSFER ORDER/CORRIGENDUM DATED
17.08.2020 ON BEHALF OF RESPONDENT NO.3

Respectfully Sheweth:-

Preliminary Objection:

1. The Preliminary Objection raised in the reply to the service appeal may kindly be treated as an integral part of this reply.

ON FACTS:-

1. Correct.
2. Incorrect, hence vehemently denied. The appellant has got no suitable case for the purpose of grant of relief against suspension of impugned transfer order dated 17.08.2020. What to speak of prima facie case against respondents.
3. Incorrect, hence denied. The appellant has no cogent case, hence the balance of convenience does not lie in favour of appellant. If the operation of the impugned transfer order is less likely to inflict loss on to appellant.

**It is, therefore, prayed that on acceptance of this reply,
the case/appeal in hand may kindly be dismissed along with
the application.**

Respondent No.3

Through

Tariq 21/12/2020

Tariq Kamal

Advocate, Peshawar

Dated:-21.12.2020

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Javed Iqbal

Vs

Govt of Khyber Pakhtunkhwa & Others

AFFIDAVIT

I, Sabir Hussain S/O Munir Khan R/O Said Abad, P/O Pump Koroon, Tehsil Takht Bhai District, Mardan (Respondent No.3), do hereby solemnly affirm and declare on oath that the contents of this **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

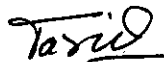


DEPONENT

CNIC#16102-9575408-7

Cell#0300-5729054

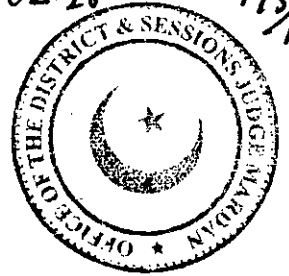
Identified by


Tariq Kamal 21/12/2020

Advocate, Peshawar



منوان بنام صاحب صین عدالت تنویر الکر سولجی اور
جوادیر اقبال 30/9/20 ضلیہ 29/9/20 دیوبند 02/9/20
مذکورہ 195/



Javed Iqbal Vs Sabir Hussain etc.
(1)

IN THE COURT OF TANVEED AKHTAR, CIVIL JUDGE-X,
MARDAN.

Order---09
29.09.2020

Parties present. Arguments already heard and record perused.

This order is intended to dispose of an application filed by defendant No.1 U/O-7 Rule-10 CPC seeking therein returned of plaint.

Counsel for defendant No.1 submitted before the Court that the plaintiff is a civil servant and has challenged his posting/transfer. He further submitted that posting and transfer of a civil servant comes under the definition of terms and conditions of service and for such like issues a special tribunal has been established which has exclusive jurisdiction and has barred the jurisdiction of civil Court. He further submitted that the issue in hand pertaining to the jurisdiction of service tribunal and this Court has lack jurisdiction to entertain the same. He requested for acceptance of instant application.

Conversely, counsel for the plaintiff submitted that the transfer of the plaintiff has been made without any just cause and reason and the same is result of malafide as the same has been made on political influence. He further submitted that as transfer of plaintiff is made on malafide basis and the same fact is very much reflected from record, therefore, the Court has jurisdiction to entertain the instant suit. He requested for dismissal of the instant application.

Defendants No.2 to 5 are present through DDA, Mardan who also seconded the stance of defendant No.1 regarding the application for return of the instant suit.

Perusal of the case file reveals that plaintiff filed the instant suit for declaration to the effect that the plaintiff was appointed as a principal BPS-18 GHSS Khadi Kali Mardan vide notification dated 06.08.2020 and assume charge on the

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Session Court Mardan

Javed Iqbal Vs Sabir Hussain etc.

(2)

same date as a principal of the said school. He further submitted that on 17.08.2020 another notification was issued through which Mr. Sabir Hussain defendant No.1 SS Physics BPS-18 GHS Nawagy Bunir is posted as principal GHSS Khadi Kali Mardan whereas the plaintiff was posted as principal BPS-18 in GHSS Ambaila Bunir. In this respect a corrigendum dated 17.08.2020 was made in the notification 06.08.2020. Plaintiff submitted in his plaint that the said notification dated 17.08.2020 and corrigendum dated 17.08.2020 is based on malafide and submitted that the same be declared as null and void.

Record of the case is clearly reflects that plaintiff is performing his duties in Education Department of Khyber Pakhtonkhwa in in BPS-18 and thus he is a civil servant. The definition of a civil servant is provided in Civil Servant Act, 1973 in Section-2 (b), which is reproduced as a ready reference as under:-

(b):- "Civil servant" means a person who as a member of civil service of the province, or who hold a civil post in a connection with the affairs of the province, but does not include.

- i. a person who is on deputation to the province from the federation or any other province or other authority.
- ii. a person who is employed on contract, or on work charged basis, or who is paid from contingencies or.
- iii. a person who is a "worker" or "workman" as defined in the factories act, 1934 (Act XXV of 1934) or the workman's compensation act, 1923 (Act VIII of 1923).

Plaintiff challenged in the instant suit his transfer and posting vide notification dated 17.08.2020 and corrigendum dated 17.08.2020 in the notification dated 06.08.2020. The matter of transfer and posting of a civil servant comes under the definition of terms and conditions of service of a civil servant. The relevant law on the subject has been discussed in chapter-II of Civil Servant Act, 1973 and the same is also reproduced for convenience as under:-

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Session Court Mardan

9.9.2020
Javed Iqbal
Plaintiff

Javed Iqbal Vs Sabir Hussain etc.

(3)

Section-10 of Civil Servant Act, 1973, Posting and transfer: - Every civil servant shall be liable to serve anywhere within or outside the province, in any post under the Federal government or any Provincial government or a Local Authority or Corporation or Body Setup or Establish by any such government.

Plaintiff is performing his duties in the Education Department in BPS-18 and the said department is governed and supervised by the provincial government of Khyber Pakhtonkhwa, therefore, in the light of Section-2 (b), he is a civil servant and in the light of Section-10 of Civil Servant Act, 1973, the posting and transfer of a civil servant comes within the definition of terms and condition of service.

The issue of plaintiff is related to transfer and the same comes within definition of terms and conditions of service and for such type issues a special tribunal has been provided under Article-212 of Constitution of the Islamic Republic of Pakistan 1973. The clause-1 (a) of the IBID law provide for establishment of administrative Courts, or Tribunals to exercise exclusive jurisdiction in respect of matters relating to the terms and conditions of person who are or have been in the service of Pakistan including disciplinary matters wherein clause-2 of the said law provide that where any Administrative or Tribunals are established under clause-1 no other Courts shall grant an injunction, make any order or entertain any proceedings in respect of any matter to which the jurisdiction of such Administrative Courts or Tribunals extends.

As a special tribunal/service tribunal has been established in the province of Khyber Pakhtonkhwa in the spirit of article-212 of Constitution of Islamic Republic of Pakistan 1973 and plaintiff being a civil servant and the relief for which he sought comes under the terms and conditions of service, therefore, the exclusive jurisdiction in the matter lie with special tribunal/Service Tribunal of KPK and the

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Session Court Mardan

Javed Iqbal Vs Sabir Hussain etc.

(4)


jurisdiction of civil Court is barred in the matter. The reliance could be placed on 2007 SCMR, 54.

It is important to mention here that plaintiff alleged for malafide regarding the transfer of plaintiff on the part of defendant but as this Court has no jurisdiction to entertain the instant suit, therefore, the said issue will also be decided by the concerned/proper forum. Moreover, the case law 2008 CLC, 1462, 2008 YLR, 109, PLD 1997 SC 3, 2000 MLDS 820, 2010 SCMR, 1630 submitted by the counsel for defendant No.1 are also not relevant to the facts of the case.

In the light of what has been discussed above, it is held that the application of defendant is genuine, hence accepted and the suit of plaintiff is returned to plaintiff U/O-7 Rule-10 CPC for want of jurisdiction and to be presented at the proper forum. Muharir of the Court is directed to return the instant plaint alongwith an annexure in original and prepare attested copies of the same. No order as to costs.

File consigned to record room after its necessary completion and compilation.

Announced
29.09.2020


(Tanveed Akhtar)
Civil Judge-X, Mardan
Tanveed Akhtar
Civil Judge-X
Mardan

صاحبہ صبیحہ ولد منیر خان سکشن سید آباد ٹیٹا ہائیڈرو پاور

Name of Applicant	
Application No	15355
Date of Presentation	30-9-20
Date on which copy	30-9-20
Date on which copy	30-9-20
No. of Pages	30-9-20
Court Fee /copy	
Urgent fee	P-4
Signed of Copyist	S
Date of Delivery	30-9-2020

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Session Court Mardan

Tanveed Akhtar
Civil Judge-x
Mardan

03
22-09-2020

درخواست - در خواست در خصوص غیره در خواست حکم استنادی غیره است دستاویزات
نقل و نقلش نقل و نقل از ایرت - در حالت نامہ

درخواست عرض

درخواست در خصوص غیره در خواست حکم استنادی غیره است دستاویزات
نقل و نقلش نقل و نقل از ایرت - در حالت نامہ
04
22-09-2020

جمع شد - حکم استنادی غیره در خواست حکم استنادی غیره است دستاویزات
نقل و نقلش نقل و نقل از ایرت - در حالت نامہ
05
19.9.2020

Tanveed Akhtar
Civil Judge-x
Mardan

درخواست در خصوص غیره در خواست حکم استنادی غیره است دستاویزات
نقل و نقلش نقل و نقل از ایرت - در حالت نامہ
05
19.9.2020

Tanveed Akhtar
Civil Judge-x
Mardan

04da 6
19.09.2020

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Session Court Mardan

plaintiff himself present.
Defendant no 1 also present.
w. reply to application for order 7
rule not submitted by plaintiff
and stated that his counsel is not
available for today and sought time
Grant with shift direction to submit
w. reply and also ensure attendance
of his counsel for next date for arguments
to come up for w. reply and arguments.
07
22-09-2020
Civil Judge-x
Mardan

۵
تاریخ ۲۴-۹-۲۰۲۰ در خواست است در خواست انڈر رولز ۷ CPC

ڈائری میں نمبر ۱ بنات جیلڈ ڈیٹر درج ذیل میں ڈی ڈی ۴ فرسٹ برانچ

۲۴-۹-۲۰۲۰ کی پیشی
Tanveed Akhtar
Civil Judge-X
Mardan

۲۴-۹-۲۰

presence on before. legal advisor
of defendants No. 2 to 5 submitted
authority letter, placed on file. Plaintiff
sought fine for arguments on the
scene that his counsel is not
available, granted. Prt 4 on

۲۶-۹-۲۰
Tanveed Akhtar
Civil Judge-X
Mardan

۲۶-۹-۲۰۲۰

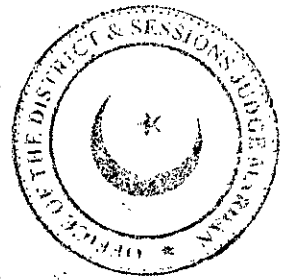
presence as before,
Counsel for the plaintiff
argued application
for ۵-7-R-10
File to Court up
for order on 29-9-2020

Tanveed Akhtar
Civil Judge-X
Mardan

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Session Court Mardan



IN THE COURT OF TANVEED AKHTAR, JMIC, MARDAN.

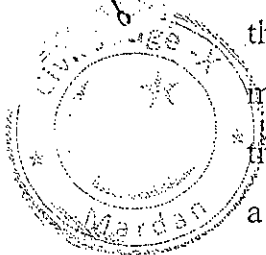
Javed Iqbal Vs Sabir Hussain etc

Order---01
22.08.2020

Instant suit presented through counsel. An application for grant of temporary injunction also annexed with the plaint. Preliminary arguments heard while record gone through.

Counsel for the plaintiff submitted before the court that the plaintiff was appointed as Principal BPS-18 GHSS Khadi Kali Mardan vide notification dated 06.08.2020 and assumed charge on the same date as the Principal of the said school. He further submitted that defendants on 17.08.2020 made a corrigendum and issued another notification through which Mr. Sabir Hussain, defendant No.1 subject specialist physics BPS-18 GHS Nawagy Bunir is posted as Principal of GHSS Khadi Kali, Mardan whereas the plaintiff was posted as a Principal BPS-18 in GHSS Ambaila Bunir. Counsel for the plaintiff further submitted that the corrigendum dated 17.08.2020 and notification dated 17.08.2020 has been issued by the defendants under the political influence as through notification dated 06.08.2020 recruitment of 204 male Principal was made but none of them was transferred in such a short period after their promotion as a Principal except the plaintiff. Counsel for the plaintiff further submitted that on the available record a prima facie case lies in favor of plaintiff and the defendants be restrained from passing any order or taking any proceedings against the defendants and that corrigendum dated 17.08.2020 and notification dated 17.08.2020 are based on malafide and are the result of political influence and requested for cancellation of the same.

Handwritten signature and date: 22/08/2020



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30 SEP 2020

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Session Court Mardan

Perusal of case file reveals that plaintiff filed the instant suit for declaration to the effect that vide

Continue Order---01

22.08.2020

notification No.SO(SM) E&SO 03.02.2017 recruitment of 204 male Principal dated 06.08.2020, plaintiff was appointed as Principal of GHSS Khadi Kali, Mardan but defendants No.2 to 5 illegally transfer the defendant No.1 as a Principal of GHSS Khadi Kali Mardan vide notification dated 17.08.2020 and the same act of the defendants is wrong, against law and fact and also against the rules and procedure and the same is ineffective upon the rights of plaintiff and that the defendants are liable to correct the same in favor of plaintiff.

Plaintiff annexed notification dated 06.08.2020, perusal of which would reveals that plaintiff is mentioned at serial No.13 and he is appointed as a Principal BPS-18 GHSS Khadi Kali Mardan. Perusal of the record further reveals that plaintiff assumed the charge of his office on the afternoon of the same day i.e 06.08.2020. Perusal of the record further reveals that pay release order dated 12.08.2020 has also been issued in the name of plaintiff from the office of District Education Officer (Male), Mardan. Available record further reveals that a notification 17.08.2020 was issued on behalf of defendants through which Mr.Sabir Hussain was posted as Principal BPS-18 at GHSS Khadi Kali Mardan and a corrigendum was issued on 17.08.2020 through which Mr.Javed Iqbal was posted as Principal of GHSS Ambaila Bunir.

The record of the case reveals that plaintiff was appointed vide notification dated 06.08.2020 as a Principal of GHSS Khadi Kali Mardan but in the same notification corrigendum dated 17.08.2020 was made and another notification dated 17.08.2020 was issued through which Mr.Sabir Hussain defendant No.1 was appointed

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30 SEP 2020

Examiner Copying Branch
Session Court Mardan

Continue Order---01

22.08.2020

as a Principal of GHSS Khadi Kali, Mardan. The plaintiff contention is that the corrigendum was made only in respect of him and the same is made under the political influence. As on the available record corrigendum is only made with respect to plaintiff and the rest of notification has been kept intact. The plaintiff was first appointed as a Principal of the GHSS Khadi Kali Mardan and then in a short period he was replaced by defendant No.1. In these circumstances it is necessary to inquire that what were the legal requirements and urgency for which corrigendum was made in notification dated 06.08.2020 only to the extent of the plaintiff and the same seems discrimination as nothing is available in rebuttal at this stage and the same fact need clarification, therefore, in the light of available record and submission made by the counsel for plaintiff a prima facie case ~~is~~ lies in favor of plaintiff, therefore, ad-interim status quo is granted in favor plaintiff and corrigendum dated 17.08.2020 and notification dated 17.08.2020 is hereby suspended till further order subject to notice to opponent party and any contrary order of the superior Courts.

Be put before the Court of learned SCJ, Mardan on 01.09.2020.

(Tarveed Akhtar)
JMIC:MOD, Mardan

Order---02
01.09.2020

Case file received from the court of learned MOD, Mardan. Entrusted to the Court of learned Civil Judge-X, Mardan for disposal.

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(IJAZ-UR-REHMAN)
Senior Civil Judge, Mardan.

30 SEP 2020

Examiner Copying Branch
Session Court Mardan

So (SM) E & SED 7.01-2020 dated 17/8/20
 کرنا غیر درجہ علم غلط - صرف قانون - صرف انصاف - صرف قوی
 و ضوابط ہے۔ حقوق عدلی پر غیر موثر و کا لدم ہے۔ دی سڈر اسٹو
 Co-Ordination اور سفر نوٹیفیکیشن کے باقیہ ہے۔ یہ درجہ علم اس
 وائس ایچ کے باقیہ و ذمہ داران ہیں

2
 A

ب : دعوت صدر کیم افسانہ نامی تا سید دواہی بر صدف و کمالیہ مہ اس
 عنہ Co-Ordination اور سفر نوٹیفیکیشن کے قسب کرنا اور اس لئے
 ایسے ہیڈ ریسٹ ہو کر درجہ علم کے ساتھ کو صراف لے اور غلط
 Co-Ordination اور سفر نوٹیفیکیشن پر عملدرآمد کرنا مسترد و باز
 رہیں

بیتائے دعوت و بیٹائے حمایت
 از انصار و کمالیہ مہ اس
 دل فصل اندر حدود عدلیہ
 نڈا سید ایسٹو

حالت غیر من کوٹ قسب
 استوارم 500 روپے
 وقتای 500

2000 روپے

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دعوت عدلیہ کے سبب ذیل طریق
 1 :- یہ عدلیہ کی تعیناتی بحیثیت پرنسپل پر 203 مئی 2017ء کو
 SO (SM) E & SED 3-2-017 Recruitment
 of male Principals 204 dated 08/8/20

گورنمنٹ ہائیڈرو گریڈنگ ریگولیشنز کے تحت

گورنمنٹ ہائیڈرو گریڈنگ ریگولیشنز

2 :- یہ درجہ اولیٰ صوبہ (S.S.) گورنمنٹ ہائیڈرو گریڈنگ ریگولیشنز
تاریخ 17/8/2020ء کے تحت جاری ہے۔

Corrigendum سے متعلق اس کے تحت جاری ہونے والے قواعد و ضوابط

گورنمنٹ ہائیڈرو گریڈنگ ریگولیشنز 2020-1-17 (S.S.) E & SED

2- قانون - صرف اصلاح - صرف قواعد و ضوابط کے بارے میں ہے۔

Corrigendum نوٹس 17/8/2020 اور گورنمنٹ ہائیڈرو گریڈنگ ریگولیشنز

17/8/2020ء قابل منسوخ ہے۔

قانون میں ترمیم کے لئے صرف قانونی اصلاحات اور گورنمنٹ ہائیڈرو گریڈنگ ریگولیشنز

میں ترمیم کی جائے گی۔ یہ درجہ اولیٰ صوبہ (S.S.) گورنمنٹ ہائیڈرو گریڈنگ ریگولیشنز

2020-1-17 (S.S.) E & SED اور گورنمنٹ ہائیڈرو گریڈنگ ریگولیشنز کو منسوخ کرنے والے

قانون اور درجہ اولیٰ صوبہ (S.S.) گورنمنٹ ہائیڈرو گریڈنگ ریگولیشنز کے تحت جاری ہونے والے

قواعد و ضوابط کے بارے میں ہے۔

3 :- یہ درجہ اولیٰ صوبہ (S.S.) گورنمنٹ ہائیڈرو گریڈنگ ریگولیشنز

تاریخ 17/8/2020ء کے تحت جاری ہونے والے قواعد و ضوابط کے بارے میں ہے۔

Corrigendum سے متعلق اس کے تحت جاری ہونے والے قواعد و ضوابط

گورنمنٹ ہائیڈرو گریڈنگ ریگولیشنز 2020-1-17 (S.S.) E & SED

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4 یہ دہلی کی تعیناتی جیسے پرنسپل برائے لوشیفٹیشن میجر ویل کی
 Pay release order کے لیے جاری ہے۔ - ورنہ جاری نہیں کیا ہے
 منسلق دستاویز کے ساتھ ہے۔ - لیکن باوجود اس کے کہ عدالت نے اس پر موقوف
 استیصال کرتے ہوئے نوٹی کر کے سے عدالت کو اس پر موقوف کیا ہے۔ - جو قابل
 موقوف ہے۔

5 :۔ یہ عدالتی قانون جب تک عدالت کی تعیناتی موقوف نہ ہو کہ از کم تین
 سال تک موقوف نہیں ہو سکتا۔ - لیکن عدالت نے
 یہ کہ دن بعد عدالت کی فراہمی کے عدالت نے قانون کو باطل کر کے
 روک دیا ہے۔


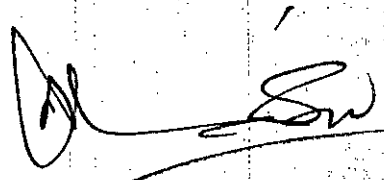
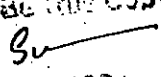

6 :۔ یہ برائے حکم استغاثہ کی دوا میں پروفیسر علی محمد علی کی
 فراہمی کے - جاری ہے۔ - لیکن عدالت نے اس پر موقوف کیا ہے۔ -
 اور Notification of Recruitment داتا 8/8/20 کا پر عملدرآمد کرنا
 مطلوب ہے۔

7 :۔ یہ عدالت نے علی محمد علی کو خالی طور پر کیا گیا کہ وہ دعویٰ میں درست تسلیم کرے
 Correspondence of recruitment dated 8.8.20
 اور فراہمی نوٹیفیکیشن مورخہ 8/8/20 کو موقوف کرے۔ - جاری نہیں کیا
 لیکن عدالت نے اس پر موقوف کیا ہے۔ -
 ضرورت دعویٰ پر فراہمی ہوگی۔ -
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8 :۔ یہ عدالت نے پرنسپل کو فراہمی اختیار کیا ہے۔ -
 فراہمی کے درجہ عدالت نے فراہمی کے لیے عدالت کو فراہمی کیا ہے۔ -
 فراہمی ہے۔

Serial No of Order or Proceedings	Date of Order or Proceedings	Order of other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
	30/9/2020	<p>C.A _____ taken out from the petition box</p> <p>After checking the same found correct.</p> <p>Put up before the Court for further order, please.</p> <p style="text-align: right;">  (Superintendent) Sessions Court, Mardan </p>
6-1	30.09.2020	<p>Entrusted named</p> <p>ADJ-V, Mardan</p> <p style="text-align: right;">  </p>
Order-02.	<p>✓ 30.09.2020</p> <p style="text-align: center;"> Certified To Be True Copy  30.09.2020 Examiner Copying Branch Session Court Mardan </p>	<p>Instant Civil appeal received from the court of Hon'ble District Judge, Mardan. Be entered in the relevant register.</p> <p>Appellant alongwith his counsel present. Preliminary arguments heard. Points raised, needs consideration. Admitted for full hearing. Notice to respondents for <u>07.10.2020</u>.</p> <p>At the same time the transfer order of the petitioner is hereby suspended till further orders.</p> <p style="text-align: right;">  (MUHAMMAD AYAZ KHAN) AD & SJ-V, Mardan </p>

Order--03

07.10.2020

Appellant and respondent No.1 in person present. Respondent No.1 submitted wakalatnama duly signed by Tariq Kamal Khan Advocate, placed on file. Respondent No.5 despite of service absent, hence, placed exparte. Respondents No.2,3 and 4 are absent. Be summoned through register AD for 12.10.2010. Appellant is directed to submit register AD, envelop within three days positively.

(MUHAMMAD AYAZ KHAN)
AD&SJ-V, MARDAN.

Order--04

12.10.2020

Appellant and respondent No.1 in person present. Respondents No.2,3 and 4 are absent. Be summoned again through register AD for 17.10.2020. Appellant is directed to submit register AD, envelop within three days positively.

(MUHAMMAD AYAZ KHAN)
AD&SJ-V, MARDAN.

N.R
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The P.O. is on casual leave.

To come up on 29-10-20

N.R
29-10-20
adjourned. To come up for 7-11-20

IN THE COURT OF SAID BADSHAH
ADDITIONAL DISTRICT & SESSIONS JUDGE-V, MARDAN.

Javed Iqbal....Vs....Sabir Hussain etc.

Order—05 07.11.2020

Appellant in person present. Respondent No.1 present. Remaining respondents are proforma, need not to be summoned. To come up for arguments on 11.11.2020

(SAID BADSHAH)
AD&SJ-V, MARDAN.

Order—06 11.11.2020

Parties present. Arguments could not heard as bar members are on strike. Adjourned. To come up for arguments on 18-11-20

(SAID BADSHAH)
AD&SJ-V, MARDAN.

Order—07 18.11.2020

Parties present alongwith their counsel. Arguments on behalf of respondents heard while counsel for appellant sought time for arguments. Granted. To come up for arguments on behalf of appellant and order on 21-11-20

(SAID BADSHAH)
AD&SJ-V, MARDAN.

Order—08 21.11.2020

Parties present. Arguments on behalf of appellant heard and to come up for order on 30-11-20

(SAID BADSHAH)
AD&SJ-V, MARDAN.

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کیرالت جناب ڈسٹرکٹ جج صاحب مردان

56/9/20
SUPERIOR JUDICIAL
Sessions Division
Mardan.

جاوید اقبال ولد غلام قادر پرنسپل (B.S 18) گورنمنٹ ہائیئر سیکنڈری
سکول خادی ملک تحت بغاٹی ضلع مردان ----- (ڈسٹرکٹ)

بینم

۱۔ صاحبزادہ (S.S) گورنمنٹ ہائیئر سیکنڈری اسکول ناوالی بونیر
حال پتہ سید آباد کت بغاٹی ضلع مردان (۲) سکول ہائیئر ایلیمنٹری
ہائیئر سیکنڈری اسکول کوشن پشاور (3) ڈائری ہائیئر ایلیمنٹری
ہائیئر سیکنڈری اسکول کوشن ک.پ.ک پشاور (4) سکول
آفیسر (male) سکول ہائیئر ایلیمنٹری پشاور (5) ڈسٹرکٹ
ایجوکیشن آفیسر (Male) مردان ----- (ڈسٹرکٹ)

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اس پر بنا رضی و برصفت حکم و فیصلہ و درکار جناب

تنویر اختر سول جج صاحب مردان درتہ غیر 1/ 1957

رہنوع 2020-8-2 فیصلہ مردان 20-9-20

20/12/2020
Examiners Branch
Mardan

تعمیراتی رو سے دعویٰ مدعی لوہہ اختیار سماعت نہ ہونے کی بنا پر
R 10 order ضابطہ دیوانی واپس (Return) کی بنا پر
جو کہ غلط - خدف قانون - خدف انصاف - خدف اصول فقہی
خدف دو تہہ در مشل ہے قابل مشورہ ہے - نتیجہ قابل بحالی نہ ہے
اور عدالت خدف کورڈر دفعہ 9 ضابطہ دیوانی اختیار سماعت حاصل ہے

6

استدعا ئے امین : منظور ہے اس پر حکم دیا گیا و مفصلہ
فاضل عدالت بہ مقدمہ نمبر
ریپورٹ کو صبرٹ ^{منظرہ} در کرنے کا حکم صادر فرماویں جائے

اختیار سماعت
جناب ڈسٹرکٹ جج صاحب مددگار کو اختیار سماعت
حصہ 2

حالت غیر من کوٹ غنسی

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صدا بحالی : وجود ہے اس پر بحالی عدالت حسب ذیل عرض ہے

1 :- یہ کہ مفصلہ فاضل عدالت قاضی بہ مقدمہ نمبر 195/195
29/9/20 غلط - خدف قانون - خدف انصاف خدف دو تہہ در مشل
ہے نتیجہ قابل بحالی نہ ہے - یہ قابل مشورہ ہے (مصدقہ فقہی)
لقمیں

۱۱/۱۱/۲۰۲۰

P-4

صدر ریاستہائے شانہ عالیہ کے عہدہ کوئی طریقہ کار سفر نوٹس (سفر نوٹس) و عہدہ
 ریاستہائے شانہ عالیہ و تیار کرنے Grouper اور خصوصاً صرف ایڈووکیٹ کو
 مارتھ کر کے تمام افعال ریاستہائے شانہ عالیہ سیاسی اثر و رسوخ. Mail call
 اور بددیشی وغیرہ کا نتیجہ ہے۔ یہی وجہ عدالت دیوانی اختیار سماعت
 حاصل ہے

یہ حکم و فیصلہ منسوخ ہے دسپروویو کے الفاظ پر عدالت
 باجواز عدالت حضور انور اعلیٰ کونسل

لیڈر اسٹریٹجی کے منظور ایس پیرا حکم و فیصلہ فاضل
 عدالت مانتا ہے 25-12-20 کو منسوخ فرمائی ہے کہ عدالت
 عدالت / ایڈووکیٹ میرٹ پر فیصلہ صادر کر لیا حکم و فیصلہ و اس کے
 دسپروویو (سفر نوٹس) الفاظ عدالت دیوانی سماعت ہو گیا

تاریخ 30-9-2020

جاوید اقبال (دعویٰ)

جو کالت صدر عدالت دیوانی کراچی
 عدالت

شاہد علی
 یہ تصدیق ہے کہ اس کا
 صدر عدالت دیوانی کراچی
 عدالت

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جاوید اقبال
 عدالت

۵-۴

لبیکت جناب ڈسٹرکٹ جج صاحب مدد ان

سید

جاوید اقبال نام صاحب زمین

۱۳۱

جناب عالی... درخواست میرا رد و رقم امتناعی تا کہدی دواہی برضد

میرا نام کرو *Notification of Recusation* مورخہ 25/8/20

در عمل در آمد کرنے کیلئے ہدایت فرمائی *Corrigendum*

مورخہ 25-8-17 تا 17-8-20 اور اسنوٹ و اسٹریٹس و اسٹریٹس و اسٹریٹس

مورخہ 25-8-17 کو منسوخ کر کے ریٹائرمنٹ دیا گیا کو 6/8/20

لکھنے سے منسوخ و باز رکھیں *Suspend* مورخہ 22-8-20

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۱۔ کہ اس عنوان بالا امر و ذمہ عدالت حضرت الزور میں
دائرہ جاری ہے

۲۔ کہ اس میں ثقافت کو جس وجوہات پر مبنی ہے جسے ہی وجوہات
اس سے واضح ہے۔ ایڈوانسٹ کے حق میں مفصلہ صادر
ہوئی ہے قومی امکانات موجود ہے

۳۔ کہ با دالہ النظر میں تو ازان سہولت ہیں

اپیلرٹ کے قوصیں 2

میں

4 :: یہ کہ مدعا علیہ سے سے غیر قانونی - صرف قوصیہ
 وضوایا ٹرانسفر نوٹیفیکیشن و Affidavit
 مورخہ 17.8.20 جاری کی ہے اور اس پر
 عمل درآمد کرنے کے لیے عین ہیں وہ عمل
 مدعا علیہ سے اپیلرٹ کے قوصیہ کو ناقابل تلافی نقصان

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10

لینا اس کے لیے کہ منظور دی قوصیہ پر اصرار کہ
 اس تنازع میں نہ کہ جو اپیلرٹ پر صرف رسیدہ ٹران
 صدر فرما کر حکم صادر عدالت صاحب
 کو بحال لکھتے ہوئے حکم صادرہ 20-8-20 کو
 Suspend 29-8-20

جاوید اقبال اپیلرٹ
 محمد
 بزرگ محمد قود
 H. M. A.

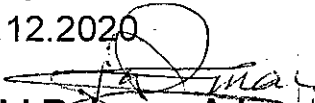
سید حفیظ
 بزرگ محمد قود
 محمد
 کوئی اور قوصیہ
 جاوید اقبال
 H. M. A.



**Statement of Said Rahman Advocate, Mardan, counsel
for the appellant on oath.**

Stated that the appellant is no more interested to
proceed further with the appeal in hand, it is, therefore,
requested that the appeal may kindly be dismissed as
withdrawn. My wakalatnama is Ex.PA.

RO &AC
03.12.2020


Said Rahman Advocate,
Counsel for the appellant.


(SAID BADSHAH)
Additional District Judge-V,
Mardan.

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لیدالٹ جی۔ ایچ۔ اینڈ سون ڈیولپمنٹ کورپوریشن لمیٹڈ

جاوید اقبال نیئر صاحب برصغیر وغیرہ

رسید

صوبہ بلوچستان، درخواست نمبر 12/2020 کی تاریخ 12/10/2020

1. یہ مذکورہ عنوان پر لیدالٹ و سون ڈیولپمنٹ کورپوریشن لمیٹڈ کی طرف سے
تاریخ 12/10/2020 کے تحت منظور کیا گیا ہے۔

2. یہ زمین عدالت کی طرف سے 12/10/2020 کی تاریخ پر
میں پٹنہ اور ریاست کی کورٹ میں منظور کیا گیا ہے۔

3. یہ بلوچستان کے لیدالٹ و سون ڈیولپمنٹ کورپوریشن لمیٹڈ کی طرف سے ہے۔

اسیذا اسٹیمپ کے مطابق درج ذیل درخواست نمبر
مذکورہ عنوان پر 12/10/2020 کی تاریخ پر منظور کیا گیا ہے
فرزادوں کی طرف سے

تقریب 12/10/2020

جاوید اقبال نیئر
[Signature]

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عدالت عالیہ پشاور ہائی کورٹ، پشاور



8-8-2020

RFA 54/2017 (NOTICE CASES)

150193-150193

تاریخ

Regular First Appeal (R.F.A)

مقدمہ نمبر

Deputy Director (Centre) Pakhtunkhwa Highways Authority and another VS Dilaram Khan and others

(150193) Said Rehman (RESP:ADV) Mardan,

0346 9354566

پروانہ انوائس نمبر

12-Oct-2020

مقام پشاور ہائی کورٹ

مقدمہ مندرجہ عنوان بالا میں بتاریخ پیشی مورخہ:

آپ کے صاحب صاحبان

کو بذریعہ پروانہ انوائس مذکور مطلع کیا جاتا ہے کہ

عدالت

مقرر کی گئی ہے لہذا

مجھے سچ برائے پیروی جو ابھی مقدمہ اصالاً مختار ناما حاضر ہو جائے۔ ورنہ بصورت عدم موجودگی

08:30 AM

وہ تاریخ مذکور پر عدالت ہذا میں ہوتی

اس کے خلاف یکطرفہ کرداری عمل میں لائی جائے گی۔

کو شیٹ میرے اور دستخط اور میر عدالت سے جاری کیا گیا۔

8-8-2020

آج بتاریخ

Mardan

ایگزیکٹو جج

پشاور ہائی کورٹ

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Session Court Mardan

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ
بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

صوبہ اقبال
صوبہ صین و غیرہ

محمد
11/11/20

رسید

صوبہ صین و غیرہ اور دیگر صوبوں کے لیے
43

پہلے اس میں ہر لکھنؤ اور صوبہ صین کے لیے
تاریخیں لکھی گئی ہیں

پہلے اس میں ہر لکھنؤ اور صوبہ صین کے لیے
تاریخیں لکھی گئی ہیں

پہلے اس میں ہر لکھنؤ اور صوبہ صین کے لیے
تاریخیں لکھی گئی ہیں

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Session Court Mardan

پہلے اس میں ہر لکھنؤ اور صوبہ صین کے لیے
تاریخیں لکھی گئی ہیں

21-11-20

کبدالت جناب ایڈیشنل ڈسٹرکٹ جج صاحب مدد

جاوید اقبال نیئر صاحب صحن بھنگر

ذیل ملاحظہ فرمائیں
12/12/20
12/12/20

اس پر

جناب عالی، درخواست گزار نے *Early Hearing* سے اس عنوان پر 45
جناب ایڈیشنل ڈسٹرکٹ جج صاحب مدد سے

جس میں اس عنوان پر کبدالت حضور انور سے آگے پیش
12-02 کی تاریخ مقرر ہے۔

یہ ایڈیشنل ڈسٹرکٹ جج صاحب مدد کے ہاں کوئی مزید کارروائی نہیں ہے
کرنا ہے۔ حضور ایڈیشنل ڈسٹرکٹ جج صاحب مدد سے

جس کے لیے مقررہ تاریخوں پر اس روزانہ درخواستیں مقرر کرنا مطلوب ہے

ایذا سزا کے بارے میں منظوری درخواستیں
باید اس روزانہ درخواستیں مقرر کرنا شروع کر دیں
فرق وہیں ہے

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Session Court Mardan

12
2020

جاوید اقبال
بھنگر

بعدالت جناب ڈسٹرکٹ سیشن جج صاحب دروازہ

4368



مورخہ 29 ستمبر 2020ء منجانب: جاوید اقبال
 مقدمہ بعنوان: جاوید اقبال
 مقدمہ نمبر: نام: صاحب صہبہ
 نوعیت مقدمہ: اپیل
 مقدمہ علت نمبر: مورخہ
 جرم: تھانہ

50 روپے

باعث تحریر آنکہ



مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دی ویکل کارروائی متعلقہ آن مقام مردان کیلئے سید رحیل احمد کے واسطے پیروی و جواب دی ویکل کارروائی مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز ویکل مقررہ کو راضی نامہ کرنے و تقریر کی ثالث و فیصلہ برحلف دینے عرضی دعویٰ، جواب دعویٰ، اقبال دعویٰ، جواب الجواب، عذر داری، درخواست زبردفعہ (2) 12 ض د، درخواست برآمد برآمدگی و سرسبزی مقدمہ، درخواست برآمد منسوخی کارروائی و ڈگری یک طرفہ دائر کرنے جواب، جواب الجواب وغیرہ درخواست کارروائی اجراء دائر کرنے و وصولی چیک و رقم اور درخواست از ہر قسم کی تصدیق ذراں پر دستخط وغیرہ کرنے کا اختیار ہوگا۔ اپیل، اپیل دراپیل، نگرانی، نظر ثانی، رٹ و عذر داری وغیرہ دائر کرنے کا بھی اختیار ہوگا۔ اور بصورت ضرورت مذکورہ کے عمل یا جزوی کارروائی کے واسطے ویکل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقریر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اس کا ساختہ برداختہ منظور و قبول ہوگا اور دوران مقدمہ میں جو خرچہ دہر جانہ التوائے مقدمہ کے سبب سے ہوگا اسکے مستحق ویکل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کا بھی اختیار ہوگا۔ اگر کوئی تاریخ پیشی پر ویکل موصوف مقام دورہ پر ہو یا حد سے باہر ہو یا بیمار ہو یا کوئی ضروری کام ہو۔ تو ویکل صاحب پابند نہ ہونگے کہ پیروی مقدمہ مذکورہ کریں لہذا وکالت نامہ لکھ دیا تاکہ سند رہے۔

المرقوم: 30-9-2020
 مقام: مردان

کے لئے منظور ہے۔

نوٹ: اس وکالت نامہ کو نوکالی تا قابل قبول ہوگی۔

Advocate I.D:

Bar Council

Bc-10-6014

Bar Association

Mardan

Contact #:

0346-9354566

Attested & Accepted

(Handwritten signature and date)
 3/12/2020

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 Session Court Mardan

جاوید اقبال و لہذا سند قائم و لہذا سند قائم و لہذا سند قائم

بعدالت صفا ایڈیشنل ڈسٹرکٹ جج صاحب مدد



7 اکتوبر 2020ء منجانب: مسیاد ڈسٹرکٹ جج صاحب مدد
مقدمہ بعنوان جاوید اقبال بنام صاحب حسین و منیرہ
مقدمہ نمبر _____
نوعیت مقدمہ اپیل
مقدمہ علت نمبر _____
جرم _____
مورخہ _____
تھانہ _____

50
روپے

باعث تحریر آنکھ



مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام مددان کیلئے ہاروی ایل ڈسٹرکٹ کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل مقررہ کو راضی نامہ کرنے و تقرر کی ثالث و فیصلہ برحلف دیئے عرضی دعویٰ، جواب دعویٰ، اقبال دعویٰ، جواب الجواب، عذر داری، درخواست زبردفعہ (2) 12 ض د، درخواست برآمد برآمدگی و سبب کی مقدمہ، درخواست برآمد منسوخی کاروائی و ڈگری یک طرفہ دائر کرنے جواب، جواب الجواب وغیرہ درخواست کاروائی اجراء دائر کرنے و وصولی چیک و رقم اور درخواست از ہر قسم کی تصدیق زراس پر دستخط وغیرہ کرنے کا اختیار ہوگا۔ اپیل، اپیل دراپیل، نگرانی، نظر ثانی، رٹ و عذر داری وغیرہ دائر کرنے کا بھی اختیار ہوگا۔ اور بصورت ضرورت مذکورہ کے عمل یا جزوی کاروائی کے واسطے وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اس کا ساختہ برداختہ منظور و قبول ہوگا اور دوران مقدمہ میں جو خرچہ دہر جانہ التوائے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کا بھی اختیار ہوگا۔ اگر کوئی تاریخ پیشی پر وکیل موصوف مقام دورہ پر ہو یا حد سے باہر ہو یا بیمار ہو یا کوئی ضروری کام ہو۔ تو وکیل صاحب پابند نہ ہونگے کہ پیروی مقدمہ مذکورہ کریں لہذا کالت نامہ لکھ دیا تاکہ سند رہے۔

الرقوم: 7 اکتوبر 2020ء

مقام مددان Attested & Accepted کے لئے منظور ہے۔

نوٹ: اس کالت نامہ کو ڈوکائی قابل قبول ہوگی۔

Advocate I.D:

Bar Council

BC-10-6195

Bar Association

Peshawar

Contact #:

03015932818

Attested
&
Accepted

Tariq
Advocate
7/10/2020

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Session Court Mardan

محمد رضا خان AST لہذا مہر و
 عادیہ اقبال و مہر محمد نادر مہر علی گرانٹ و ماسٹر گلشن
 مگر فارسی لے لیں گے مگر مہر مہر

6739

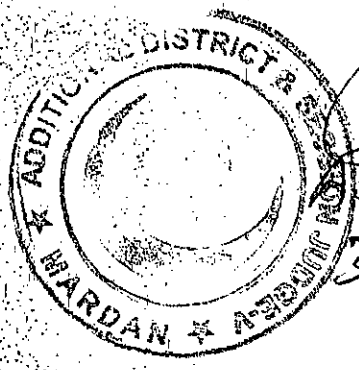
محمد رضا خان (S.S) گرانٹ و ماسٹر گلشن مگر علی گرانٹ
 حال میں مہر مہر مہر مہر

(52)

2. مہر مہر مہر مہر مہر مہر مہر مہر
3. مہر مہر مہر مہر مہر مہر مہر مہر
4. مہر مہر مہر (Male) مہر مہر مہر
5. مہر مہر مہر مہر مہر (Male) مہر مہر

محمد رضا خان گرانٹ و مہر مہر مہر مہر مہر مہر مہر مہر
 7/20

مہر مہر مہر مہر مہر مہر مہر مہر



MARDAN
 30-8-20

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5 DEC 2020

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 Session Court Mardan

محمد رضا خان
 مہر مہر مہر



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
Block-"A" Opposite MPA's Hotel, Civil Secretariat Peshawar
Phone: 091-9210480, Fax # 091-9211419

Dated Peshawar the August 06, 2020

NOTIFICATION

No.SO(SM)E.&SED/3-2/2017/ Recruitment of 204 Male Principals:

WHEREAS the Khyber Pakhtunkhwa Public Service Commission vide letter No.023290 dated 17.10.2019 has recommended 18 candidates for appointment in the overall category of Teaching Cadre in the Elementary and Secondary Education Department;

WHEREAS the Hon'ble Peshawar High Court, Abbottabad Bench disposed of the W.P No.1151 dated 23.10.2019 with the observation that "the advertised posts be considered as quota for initial recruitment in accordance with the recruitment rules for all the categories mentioned therein...";

WHEREAS the Competent Authority/Chief Minister Khyber Pakhtunkhwa in view of the recommendation of the KPPSC and the decision of the Hon'ble Peshawar High Court, Abbottabad Bench in W.P No.1151 dated 23.10.2019 is pleased to appoint the recommended eighteen (18) candidates in BS-18 in the overall Teaching Cadre of Elementary & Secondary Education;

WHEREAS the Public Service Commission has not thus far communicated the Inter-Sc-Seniority of the recommended candidates and it is therefore not possible to allocate sub-cadres (Principal/Vice-Principal/Subject Specialist RITE/ Deputy Director PITE and other equivalent posts) as per Service Rules within the overall Teaching Cadre in accordance with the judgment of the Hon'ble High Court in W.P No.1151 dated 23.10.2019;

AND WHEREAS sub-cadres (Principal/Vice-Principal/Subject Specialist RITE/ Deputy Director PITE and other equivalent posts) within the overall Teaching Cadre of all 18 candidates recommended by the Commission will be allocated and notified subsequently upon receipt of Inter-Sc-Seniority/Merit of the candidates from the Commission and choice of the candidates if any;

NOW THEREFORE the following 18 candidates recommended by the Commission are appointed in the overall Teaching Cadre subject to the terms and conditions mentioned hereafter in basic pay scale 18 @Rs.38350-2870-95750 plus usual allowances as admissible under the rules, on regular basis under the existing policy of the Provincial Government and posted against vacancies shown against their names:



GOVERNMENT OF KHYBER PAKHTUNKHWA

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Phone: 091-9210480, Fax # 091-9211419

Sr/#	Name with Father's Name	Domicile/Zone	Address	Posted as	Remarks
1.	Mr. Zia ud din S/O Hamid ul Haq	Dir lower/3	Nowshier Medicose, THQ Hospital, Samar Bagh Dir Lower	Vice-Principal (BS-18) GHSS Samar Bagh Dir Lower	AVP
2.	Mr. Muhammad Rafiq S/O Muhammad Shafi	Peshawar/2	C/O Khadim Carpenter, Near Khalil Academy, Sarbiland Pura, Hussain Chowk, Sethi Town, Haji Camp Peshawar	Principal (BS-18) GHSS Kharori Buner	AVP
3.	Mr. Saeed Ullah S/O Buzarg Ahmad	Dir Lower/3	Qazi Abad, Tatar, P/O & Tehsil Samar Bagh Dir Lower	Principal (BS-18) GHS Ossori Dir Upper	AVP
4.	Mr. Alam Khan S/O Amir Salam Khan	Swat/3	Village Islam Pur, P/O Saidu Sharif, District Swat	Principal (BS-18) GHSS Kalam, Swat.	AVP
5.	Mr. Tariq Ali S/O Jan Wali	Peshawar/2	PITE, Larama, Landy Sarak, Behind Benazir Women University Peshawar	Instructor (BS-18) RITE (Male) Kohat	AVP
6.	Mr. Khizer Hayat S/O Khial Badshah	Karak/4	Main Bazar, in front of Zaiqa Tanoor, Algade, District Karak	SS English (BS- 18) GHSS Dawaba, Hangu	AVP
7.	Mr. Said ul Hussain S/O Said ul Wahab	Shangla/3	Village, Tehsil and P/O Alpuri District Shangla	Principal (BS-18) GHSS Kotkay Shangla	AVP
8.	Mr. Fakhr E Alam S/O Muhammad Ashraf	Peshawar/2	House#13/32, Naeem Manzil, Sunehri Masjid Road, Peshawar Cantt.	Senior Librarian BS-18 GHSS Wazirbagh Peshawar	AVP
9.	Mr. Sarfaraz Khan S/o Said Muhammad	Peshawar/2	C/O Sardar Tailor, Haji Nawaz Market, Din Bahar Colony, Charsadda Road Peshawar	SS Economics (BS-18) GHSS Fatehpur Swat	AVP
10.	Mr. Muhammad Ijaz Khan S/O Gul Nawaz Khan	Lakki Marwat/4	C/O N/Sub Clk Muhammad Nawaz, Training Wing, DSF	Principal (BS-18) GHS Tajori Tank	AVP



GOVERNMENT OF KHYBER PAKHTUNKHWA

ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
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			Centre, Cantt. District D.I. Khan		
11.	Mr. Irfan Ullah S/o Farman Ali	Mardan/2	Village Sadiq Abad P/O Chargull Tehsil Rustam District Mardan	Principal (BS-18) GHSS Utror Swat	AVP
12.	Mr. Muhammad Alam S/O Bahadar Khan	Mohmand/1	C/O Sartaj Khan Composing Center. Madina Market, Muhammadi Street, Lala Zar Colony, University Campus, Peshawar	SS Physics (BS-18) GHSS Lachi, Kohat.	AVP
13.	Mr. Javed Iqbal S/O Ghulam Qadar	Bajaur/1	Village Asif Killy, P/O & Tehsil Takht Bai District Mardan	Principal (BS-18) GHSS Ambela Buner	AVP
14.	Mr. Tariq Iqbal S/O Muhammad Ayub Khan	Karak/4	Village Garh Jawal Khel, P/O Jandrai, Tehsil & District Karak	Principal BS-18 GHSS Chaudwan D.I.Khan	AVP
15.	Mr. Muhammad Yousuf S/O Ghulam Musa	Chitral/3	Miraj Uddin House, AKPBSP office Near GHS Balach Chitral	Senior Instructor (BS-18) RITE Droshi Chitral Lower	AVP
16.	Mr. Maidad Gul S/o Amir Gul	Buner/3	Village Cheena, Tehsil Gagra, P/O Daggar, District Buner	SS Urdu (BS-18) GHSS Gagra Buner	AVP
17.	Mr. Shahid Ali S/O Shamal Khan	Khyber/1	C/O Principal GHS Jan Khan Killi Bara District Khyber	Principal (BS-18) GHS Tooti Bagh Orakzai	AVP
18.	Mr. Munawar Khan S/O Gul Wali Khan	FR Bannu/1	Village Painsa Khel, P/O Domel. Surat Khan General Store, Azim Killa Ada, Bannu	Principal (BS-18) GHS Jilar Upper Dir	AVP

Terms and Conditions:

1. They shall be governed by the Khyber Pakhtunkhwa Civil Servants Act, 1973 and the rules made thereunder.



GOVERNMENT OF KHYBER PAKHTUNKHWA

ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
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2. The sub-cadres within the overall Teaching Cadre (Principal/Vice-Principal/Subject Specialist RITE/ Deputy Director PITE and other equivalent posts) of the appointed candidates shall be determined on the receipt of Inter-Se-Seniority/Merit from the Khyber Pakhtunkhwa Public Service Commission and preferences of the candidates, if any, and notified subsequently.
3. Their services shall be confirmed only on successful completion of probation for an initial period of one year which may be extended if so required for further one year as per rules.
4. Their pay shall be released subject to verification of their academic documents/testimonials from the concerned Board/University by the District Education Officer (Male) concerned.
5. They shall be eligible for pension/deduction of GP Fund in terms of the Khyber Pakhtunkhwa Civil Servants Act, 1973 as amended in 2013.
6. They shall be governed by such rules & regulations as may be issued from time to time by the Government.
7. Their services shall be liable for termination at any time, in case their performance was found unsatisfactory during probationary period.
8. The appointees shall join their posts within 30 days of the issuance of this notification and the Director E&SE Khyber Pakhtunkhwa Peshawar shall furnish a certificate to the effect that the candidates have joined their posts, failing which their candidature shall expire automatically and no subsequent appeal etc shall be entertained.
9. Charge assumption report should be submitted to all concerned.
10. No TA/DA shall be allowed to the appointees for joining their duties.

[Handwritten signature and initials]

SECRETARY

Endst: of even No. & Date :-

Copy forwarded to the:

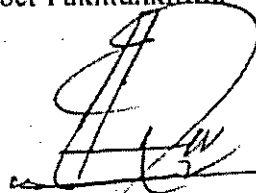
1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar, along-with application forms and medical reports of the above candidates.
3. Director (Recruitment) Khyber Pakhtunkhwa Public Service Commission Peshawar.
4. District Education Officers (Male) Concerned.
5. District Accounts Officers Concerned.



GOVERNMENT OF KHYBER PAKHTUNKHWA

ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone: 091-9210480; Fax # 091-9211419

6. PS to PSO to Chief Minister Khyber Pakhtunkhwa.
7. PS to PSO to Chief Secretary Khyber Pakhtunkhwa, Peshawar.
8. PS to Advisor to CM for E&SE Department, Khyber Pakhtunkhwa.
9. Director EMIS, E&SE Department for uploading at the official website.
10. PS to Secretary E&SE Department, Khyber Pakhtunkhwa.
11. Officers concerned.
12. Office order file.


06/08/2020
(MUHAMMAD ARIF)

SECTION OFFICER (SCHOOLS MALE)

CHARGE REPORT

Certified that we have before Noon of this day i.e. 18-8-2020

Made over & received charge of the Post of Principal

GHSS Khadi Killi District Mardan, Vide Notification No.SO(SM)E&SED/7-1/2020
/Posting /Transfer/General:

Hand Over Charge

Name & Designation:

Station:



SARTAJ (sst)(I/C)

GHSS Khadi Killi Mardan.

HEAD MASTER
GHS Khadi Killi
Teh: T.Bhai Mardan

Take over Charge

Name & Designation

Station





SABIR HUSSAIN Principal

GHSS Khadi Killi Mardan.

Endos: 40-49 Dated 18/8/2020

Forwarded for information and necessary action to the

1. Accountant General ,khyber Pakhtunkhwa, Peshawar.
2. Director of Elementary and Secondary Education KP Peshawar.
- 3 District Education officer (Male) Buner Mardan
4. District Accounts Officer Mardan
- 5.PS to Minister for E&SE Department .
- 6.PS to Secretary E&SE Department
- 7.PS to special secretary E&SE Department
- 8.PA to Deputy secretary (Admn) E&SE Department.
- 9.Director EMIS E&SE Department.
- 10 District Accounts Officer Buner.

قیمت 50 روپے	42944	PESHAWAR BAR ASSOCIATION PBA		
ایڈوکیٹ: طارق کمال		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل ایسوسی ایشن نمبر: BC-10-6195				
رابطہ نمبر: 03015932818				

بعدالت جناب: سروس ٹری ایسول فیسبرکتو فیو الٹامہ

دعویٰ: سروس ایسول	منجانب: ریسیانڈنٹ 3
علت نمبر: —	جاوید اقبال
مورخہ: 21/12/2020	بنام
جرم: —	حکومت و فیئرہ
تھانہ: —	۸۱

باعت تحریر آگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ
 آن مقام لٹامہ کیلئے طارق کمال ایڈوکیٹ کو حکیل 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 ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
 زرائع پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یک طرفہ یا اپیل کی برآمدگی اور منسوخی، نیز
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ 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 وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخست منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانبہ التوا سے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں لہذا وکالت نامہ لکھ دیا تاکہ سند رہے
 المرقوم: طارق کمال

مقام لٹامہ
 Attested & Accepted
 Taxid
 Advocate
 21/12/2020

نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔

صاحب حسین ولد مشرف خان کلنہ کپڑا بازار ضلع لغمان
 CNIC # 1610295754087