



21<sup>st</sup> Nov, 2022. Lawyers on general strike today.

To come up for arguments on 17.01.2023 before D.B. Office is directed to notify the next date on the notice board as well as the website of the Tribunal.

  
(Fareeha Paul)  
Member (E)

  
(Kalim Arshad Khan)  
Chairman

12-5-22

Proper DB not available the case is  
adjourned on 27-7-22

*Yaqub  
Rehman*

27<sup>th</sup> July 2022 Learned counsel for the appellant present. Mr. Naseer-ud-Din Shah, Assistant Advocate General for respondents present.

Learned counsel for the appellant seeks adjournment on the ground that he has not prepared the brief of the instant appeal. Adjourned. To come up for arguments on 12.10.2022 before the D.B.



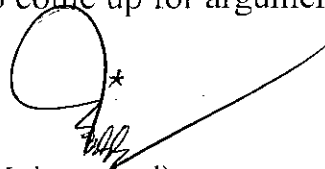
(Salah-Ud-Din)  
Member (J)



(Kalim Arshad Khan)  
Chairman

12.10.2022 Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment on the ground that he has not made preparation for arguments. Adjourned. To come up for arguments before the D.B on 21.11.2022.



(Mian Muhammad)  
Member (E)



(Salah-Ud-Din)  
Member (J)

23.11.2021 Counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Miss. Roheen Naz, ADEO for respondents present.

Written reply/comments not submitted. Representative of the respondents seeks time to submit the same on the next date. Adjourned. To come up for written reply/comments on 09.12.2021 before S.B.

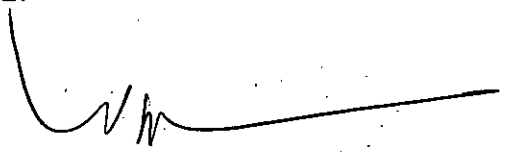
  
(MIAN MUHAMMAD)  
MEMBER (E)

09.12.2021 Appellant in person and Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Haseen Ullah, Assistant for the respondents present.

Written reply/comments on behalf of respondents not submitted. Representative of the department requested for further time for submission of the same. Request is acceded to. To come up for submission of written reply/comments on 17.01.2022 before S.B.

  
(MIAN MUHAMMAD)  
MEMBER (E)

17.01.2022 Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Miss Roheen Naz ADEO for respondents present and submitted reply/comments which are placed on file. To come up for rejoinder if any, and arguments before the S.B on 12.05.2022.

  
(Atiq-Ur-Rehman Wazir)  
Member (E)

**S.A No. 7574/2021**

26.10.2021

Counsel for the appellant present. Preliminary arguments have been heard and Memorandum of Appeal and copies of the record annexed therewith have been perused.

The appellant while posted as Junior Clerk GGHS Noudeh, Nowshera was transferred and posted as Junior Clerk SDEO (Female) Nowshera against the vacant post in the best interest of public service vide order dated 25.01.2021. Subsequently, he was again transferred from latter post and posted as Junior Clerk GGHS No. 2 Wattar Nowshera in the best interest of public service vide order dated 30.06.2021 against a vacant post. On appeal to the next higher authority against the subsequent transfer/posting, the Appellate Authority i.e. Director, E&SE, Khyber Pakhtunkhwa Peshawar cancelled the order dated 30.06.2021 vide order dated 14.07.2021, however, the cancellation order dated 14.07.2021 was withdrawn in pursuance to request of DEO (Female) Nowshera on 02.08.2021. The departmental appeal was filed against the said order to the next higher authority i.e. the Secretary, E&SE Department Peshawar on 16.09.2021. Both the orders i.e. the first order dated 25.01.2021 and the subsequent order dated 30.06.2021 are shown to have been issued in the best interest of public service, however, it is not yet determinable as to what was the ground making the transfer of the appellant in the best interest of public service when made vide order dated 25.01.2021 and what was the ground again to make his transfer through subsequent order dated 30.06.2021 in the best interest of public service. Obviously the Appellate Authority cancelled the subsequent transfer order due to

lesser tenure which is requirement of the posting/transfer policy but withdrawal of the said cancellation order on request of the DEO (F) Nowshera is not disclosing any ground as to how it was necessary when the previous transfer was made in the best interest of public service and cancelled due to lesser tenure. Let the respondents be heard to provide justification for the disputed transfers and order of the Appellate Authority which is last in the series of disputed orders. The appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. Being a transfer matter needs early disposal, therefore, short date be fixed to the extent of possibility. File to come up for arguments on 23.11.2021 before the D.B.

Appellant Deposited  
Security Process Fee  
26/11/21

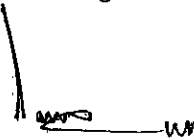

Alongwith the memorandum of appeal an application has also been submitted for suspension of the operation of the impugned office dated 30.06.2021. Notice of the application be also given to the respondents. The operation of impugned order to the extent of appellant is suspended till date fixed.

  
Chairman

## FORM OF ORDER SHEET

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

Case No.- 7574 /2021

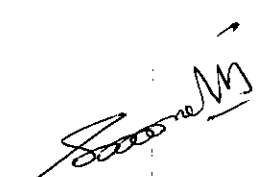
| S.No. | Date of order proceedings | Order or other proceedings with signature of judge                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-------|---------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1     | 2                         | 3                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 1-    | 11/10/2021                | <p>The appeal of Mr. Tahir Ali Shah resubmitted today by Akhunzada Syed Pervez 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;"><br/>REGISTRAR</p> <p>2-</p> <p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on <u>26/10/21</u>.</p> <p style="text-align: right;"><br/>CHAIRMAN</p> |

The appeal of Mr. Tahir Ali Shah Junior Clerk GHSS Watter District Nowshera received today i.e. on 27.09.2021 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Annexures of the appeal may be attested.
- 3- Appeal is premature which may be resubmitted after maturity of cause of action.
- 4- Certificate be given to the effect that the appellant has not been filed any service appeal earlier on the subject matter before this Tribunal.

No. 1941 /S.T,

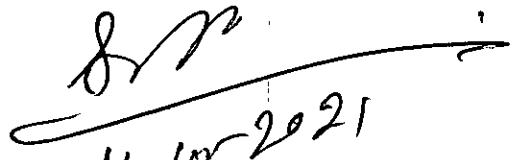
Dt. 29/09 /2021

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Akhunzada Syed Pervez Adv.Pesh.

11-10-2021

Resubmitted after office order, the subjected appeal is pertaining to transfer hence within time, however necessary corrections were made in appeal.

  
11-10-2021

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

Service Appeal No. 7574/2021

Tahir Ali Shah .....Appellant

**VERSUS**

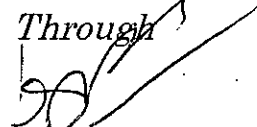
District Education Officer & other ..... Respondents

**I N D E X**

| S.No | Description of Documents                                                   | Annex | Pages |
|------|----------------------------------------------------------------------------|-------|-------|
| 1    | Grounds of Service Appeal alongwith affidavit                              |       | 1-5   |
| 2    | Application for suspension alongwith affidavit                             |       | 6-7   |
| 3    | Copy of Office Order dated 25.01.2021                                      | A     | 8     |
| 4    | Copy of impugned Office order dated 30.06.2021                             | B     | 9     |
| 5    | Copy of Departmental representation, copy of office order dated 14.07.2021 | C & D | 10-11 |
| 6    | Office order dated 02.08.2021                                              | E     | 12    |
| 7    | Copy of Departmental representation alongwith A.D registry                 | F     | 13-15 |
| 8    | WakalatNama                                                                |       | 16    |

Appellant

Through

  
Akhunzada Syed Pervez

Advocate, High Court Peshawar

Cell#0300-3160098



(1)

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

Service Appeal No. \_\_\_\_\_/2021

Tahir Ali Shah, Junior Clerk,

Govt. Girls High School District Nowshera Kalan.

..... Appellant

**V E R S U S**

1. District Education Officer (Female) District Nowshera.
2. The Director Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
3. Secretary Elementary and Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
4. Imad-Ud-Din Khattak Junior Clerk SDEO Nowshera.

..... Respondents

**SERVICE APPEAL U/S 4 OF THE KHYBER  
PAKHTUNKHWA SERVICES TRIBUNAL ACT,  
1974, AGAINST THE IMPUGNED OFFICE ORDER  
NO. 4838-43 DATED 02.08.2021 OF RESPONDENT  
NO.2 AND OFFICE ORDER NO.3517-23 / DATED  
30.06.2021 OF RESPONDENT. NO.1 WHEREBY  
THE APPELLANT IS TRANSFERRED FROM SDEO  
(F) NOWSHERA TO GGHS NOWSHERA KALAN.**

**Respectfully Sheweth:**

1. That the Appellant very implore for permission to plead his grievances at the hands of respondents and seeks solace thereto, as follows:
2. That since the date of appointment of appellant is service, as performing his official duties to the best of his ability and to the entire satisfaction of his superior.

3. That the appellant was initially transferred vide office order dated 25.01.2021 from GGHSSNoudhNowshera to SDEO (Female) Nowshera. (Copy of Office Order dated 25.01.2021 is attached as Annexure "A").
4. That the appellant hardly served the said station at SDEO (Female) Nowshera just after 5 months, when on 30.06.2021 he was again transferred from the SDEO (Female)Nowshera to GGHSWattar, Nowshera, while the Respondent No.4 was transferred to appellant place, for no legal reason by respondents. (Copy of impugned Office order dated 30.06.2021 is attached as annexure "B").
5. That on 01.07.2021 the appellant submitted representation before the respondent No.2 for cancellation of the impugned order dated 30.06.2021 and the respondent No.2 vide order dated 14.07.2021 has cancelled the said impugned office order of transfer of appellant but to utter surprise of appellant the Respondent No.2 without giving any kind of notice to appellant withdrawn his order dated 14.07.2021. It is worth to mention here that up till now the respondents did not legally and properly communicated the said impugned office order to appellant.(Copy of Departmental representation, copy of office order dated 14.07.2021 and office order dated 02.08.2021 are attached as Annexure "C", "D"&"E" respectively).
6. That feeling aggrieved from the act of the respondent No.2, when the appellant a few days back from institution of instant appeal, obtained the copy of said office order dated 02.08.2021 submitted a representation to Respondent No.3 which met dead till date. (Copy of Departmental representation alongwith A.D registry is attached as Annexure "F")
7. That feeling aggrieved from the act of the respondents now the appellant has no other adequate remedy except to file the instant Service Appeal on the following grounds amongst others:

#### GROUND S:

- A. That the impugned Office Order dated 30.06.2021 of Respondent No.1 and office order of Respondent No.2 is illegal, wrong, based on malafide, without cogent reasons based on political high handedness and fundamental rights of the Appellant, hence liable to be struck down and reversed.

- B. That neither the Appellant has committed any wrong nor has completed his tenure therefore, on this score alone the impugned transfer order needs to be reversed as it was purely made on malafide and intervention of the local politicians whereas it is high time that the trend of seeking interference and intervention of such like political figures be discouraged in line with the dictum so laid down by the superior judiciary.
- C. That the transfer and posting policy approved by the competent authority says that all postings/ transfers shall be strictly in public interest for three years and shall not be abused and misused to victimize the government servant however, most unfortunately, the government servants are always been made scapegoat so as to please the ruling party figures. It is important to mention the that the Appellant had hardly completed 05 months tenure on the same post whilst transferred on the behest of the political leaders.
- D. That there are placement committees in different departments who recommend different officers to be posted and transferred against different posts but most unfortunately in case of the Appellant none has been contacted and consulted about and all of a sudden in hasty and hefty manner impugned transfer order was issued.
- E. That the impugned notification has resulted into visible injustice to the Appellant, as the impugned office order for transfer dated 30.06.2021 has been passed without any legal or plausible justification, hence liable to be reserved and set aside on the aforementioned grounds.
- F. That the August Supreme Court of Pakistan has held in the case of Syed Mamood Akhtar Naqvi etc Vs Federation of Pakistan and others, reported as PLD 2013 Supreme Court 195 that matter of posting and transfer of civil servants cannot be allowed to be dealt with in an arbitrary manner.
- G. That the said respondents have got no authority whatsoever to issue such an illegal transfer order.
- H. That the appellant is condemned unheard, even till date the appellant is not properly communicated with revised order dated 02.08.2021. The revised order dated 02.08.2021 is unlawful, illegal and without lawful authority. And there is no legal or lawful justification or reason for revising his order.
- I. That neither proper inquiry is conducted nor was the appellant

- J. That the respondents are travelling way beyond the scope and approach adopted for others thus the approach adopted for the Appellant is in violation of the Article-10-A and 25 of the Constitution of Islamic republic of Pakistan, 1973..
- K. That the impugned order is without jurisdiction and is clearly a colorful exercise of authority.
- L. That even, otherwise, this Hon'ble Tribunal being the constitutional court of the province is vested with the authority and jurisdiction to provide efficacious and appropriate remedy to the Appellant.
- M. That any other grounds will be raised at the time of arguments with the prior permission of this Hon'ble Tribunal.

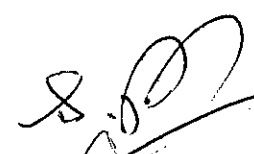
It is, therefore humbly prayed that on acceptance of this Service Appeal.

- A) Set aside the impugned Office dated 08.02.2021 and be declared as illegal, unlawful, without lawful authority and thus is of no legal effect and hence liable to be reversed.
- B) An appropriate direction be issued to respondents to withdraw/recall the impugned Office Order NO.3517-23/ DATED NOWSHERA 30.06.2021.
- C) The respondents be directed to restore-back the Appellant at his previous post along with all back benefits accrued to the appellant.

Any other relief, not specifically prayed for in the circumstance of the case may also be passed in favour of the Appellant.

Appellant

Through

  
Akhuzada Syed Pervez

Advocate High Court

*Talib M. Sheikh*

**CERTIFICATE**

It is, certified that, as per instruction of my client, no such like Appeal has earlier been filed or is pending before this Hon'ble Court.



  
Advocate

5

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

Service Appeal No. \_\_\_\_\_/2021

Tahir Ali Shah.....**Appellant**

**VERSUS**

District Education Officer  
(Female) District Nowshera & others.....**Respondents**

**AFFIDAVIT**

I, Tahir Ali Shah, Junior Clerk, Govt. Girls High School Wattar District Nowshera, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Identified by

**Akhunzada Syed Pervez**  
Advocate High Court

DEPONENT



*(Handwritten signature)*

(6)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

Service Appeal No. \_\_\_\_\_/2021

Tahir Ali Shah

VERSUS

D.E.O & others

APPLICATION FOR SUSPENDING THE OPERATION OF THE  
IMPUGNED OFFICE NO.3517-23/ DATED NOWSHERA  
30.06.2021 AND THE RESPONDENTS MAY ALSO BE  
RESTRAINED FROM TAKING ANY KIND OF ADVERSE  
ACTION AGAINST THE APPELLANT, TILL THE FINAL  
DISPOSAL OF THE MAIN SERVICE APPEAL.

Respectfully Sheweth:

1. That the titled Service Appeal is being filed before this Hon'ble Tribunal in which no date of hearing is fixed.
2. That the grounds of main appeal may kindly be considered as integral part of this application.
3. That the balance of convenience also lies in favour of the appellant.
4. That the appellant has a good prima facie case and all the three ingredients are in favour of the appellant.
5. That if the operation of the impugned Office NO.3517-23/ DATED NOWSHERA 30.06.2021 is not suspended then the appellant would suffer irreparable loss.

It is, therefore, most humbly prayed that by accepting this application, the interim relief as prayed for in the instant application may kindly be passed in favour of the appellant against the respondents.

Appellant

Through

  
Akhunzada Syed Pervez

Advocate, High Court Peshawar

7

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

Service Appeal No. \_\_\_\_\_/2021

Tahir Ali Shah.....**Appellant**


**VERSUS**

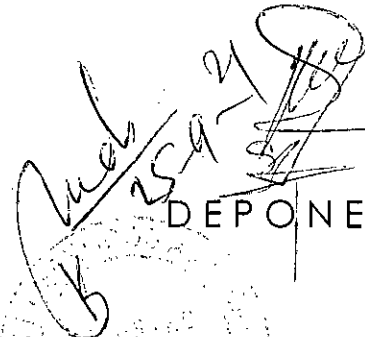
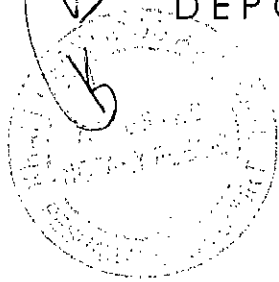
District Education Officer  
(Female) District Nowshera & others.....**Respondents**

**AFFIDAVIT**

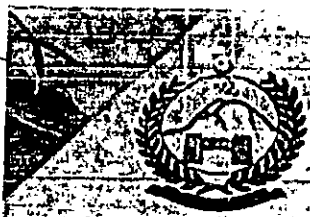
I, Tahir Ali Shah, Junior Clerk, Govt. Girls High School Wattar District Nowshera, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Identified by

  
**Akhunzada Syed Pervez**  
Advocate High Court

  
**DEPONENT**  


(8) Annfure (A) *ly*



**DISTRICT EDUCATION OFFICER  
(FEMALE) NOWSHERA  
(PH : 0923-9220105)**

**OFFICE ORDER**

The competent authority is pleased to transfer the following Ministerial Staff. On their own pay and grade in the best interest of the Public service with immediate effect.

| S. No. | Name & Designation | School/Station      | Transfer to            | Remarks             |
|--------|--------------------|---------------------|------------------------|---------------------|
| 1      | Tahir Ali Shah J/C | GOHSS Noudeli (NSR) | SDEO (Female) Nowshera | Against Vacant Post |
| 2      | Ashgar Khan J/C    | GOHS Watta (NSR)    | SDEO (Female) Nowshera | Against Vacant Post |

Note: TADA is not allowed.

Charge report should be submitted to all concerned.

The endst No. 6159-66 Dated 20-11-2020. Mr. Mujeeb Ur. Rahman & Muhammad Hashim Khan J/C has been not resume the charge for duty in the office of SDEO (Female) Nowshera till date.

(ABIDA PARVEEN)  
DISTRICT EDUCATION OFFICER  
(FEMALE) NOWSHERA

Endst No. 2188-97 Dated Nowshera the 25/01/2021

Copy for information and necessary action to the :-

1. Director (E&SE) Khyber Pakhtunkhwa Peshawar.
2. District Account Officer Nowshera.
3. Principal concerned.
4. Superintendent / ADEO Estab: local Office.
5. Official Concerned.
6. Office Copy.

*[Signature]*  
DISTRICT EDUCATION OFFICER  
(FEMALE) NOWSHERA





(S) *Annexure (B)*

*by*

**OFFICE OF THE  
DISTRICT EDUCATION OFFICER  
(FEMALE) NOWSHERA**

**OFFICE ORDER**

The competent authority is pleased to transfer/adjusted the following Ministerial Staff to the schools/offices noted against their names and offices in the best interest of public service with immediate effect.

| S.# | Name of Official & Designation              | From                        | To                          | Remarks      |
|-----|---------------------------------------------|-----------------------------|-----------------------------|--------------|
| 1   | Mr. Imad-Ud-Din Khattak<br>J/Clerk (BPS-11) | GGHS Shala Khel<br>Nowshera | SDEO (F) Nowshera           | Vice S.No.02 |
| 2   | Mr. Tahir Ali Shah<br>J/Clerk (BPS-11)      | SDEO (F) Nowshera           | GGHS Wattar<br>Nowshera     | A.V.P        |
| 3   | Mr. Zahir Muhammad<br>J/Clerk (BPS-11)      | GGHS No:2 Nowshera<br>Kalan | SDEO (F) Nowshera           | Vice S.No.04 |
| 4   | Mr. Asghar Khan<br>J/Clerk (BPS-11)         | SDEO (F) Nowshera           | GGHS No:2<br>Nowshera Kalan | Vice S.No.03 |

- Note: - 1. Charge report should be submitted to all concerned.  
2. No T.A / D.A is allowed.  
3. Mr. Imad-Ud-Din Khattak Junior Clerk office of the SDEO (F) Nowshera will work on temporary basis at GGHS Shala Khel till further order.

(DURE SHAWAR)  
District Education Officer  
(Female) Nowshera

Endst: No. 3517-231 Dated Nowshera the 30/06/2021.  
Copy for information and necessary action to the:-

1. District Accounts Office Nowshera.
2. District Monitoring Officer (DMO) Nowshera.
3. Principal Concerned schools.
4. SDEO (Female) Nowshera.
5. Superintendent / ADEO Estab: Local Office.
6. Officials Concerned.
7. Office Copy.

District Education Officer  
(Female) Nowshera

(10)

Amiruse (C)  
Cwy



DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION  
KHYBER PAKHTUNKHWA PESHAWAR.  
Phone: 091-9225344 Email: ddadmn.ese@gmail.com

Cancellation

The posting/transfer order issued by DEO (F) Nowshera under Endst: No. 3517-23 dated 30/06/2021 at serial No 02 and 04 is hereby **CANCELLED** due to less tenure.

*SDRO (F) Nowshera*

*Handed over charge to them today positively*

DIRECTOR  
Elementary & Secondary Education  
Khyber Pakhtunkhwa, Peshawar.

Endst: No. 233-37 /A-23/MS/Nowshera Dated Peshawar the 14/07 /2021.  
Copy of the above is forwarded to the District Education Officer (Female) Nowshera dated 16/7/21

1. District Education Officer (F) Concerned.
2. Sub Divisional Education Officer Concerned.
3. Principal Concerned
4. Official Concerned.
5. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
6. Master File.

*[Signature]*  
Deputy Director (F&A)  
Directorate B&SE Khyber Pakhtunkhwa  
Peshawar.

To,

The Director  
Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar

Subject:- **APPEAL AGAINST ILLEGAL TRANSFER OF UNDER TENURE JUNIOR CLERK AT  
SDEO (FEMALE) OFFICE NOWSHERA**

Dear Sir,

As per reshuffling policy issued your good self dated on 18.11.2020 we have been transfer/adjusted at SDEO (Female) Office Nowshera vide DEO (Female) Nowshera Endst: No. 2188 dated 25.01.2021 which are near to our home town, just after 5-months we have been again transferred from SDEO (female) Office Nowshera to very far station i.e GGHS Wattar Nowshera and GGHS No.2 Nowshera Kalan vide DEO (Female) Nowshera Endst: No. 3517-23 dated 30.06.2021. (copy of all documents attached) which is against reshuffling policy.

Therefore, it is requested that the transfer issued by DEO (Female) Nowshera vide Endst: NO. 3517-23 dated 30.06.2021 of S.No. 2 & 4 may kindly be cancelled due to under tenure please.

Your Obediently Servant

1. Tahir Ali Shah Junior Clerk under transfer to GGHS Wattar Nowshera.

2. Asghar Khan Junior Clerk under transfer to GGHS NO.2 Nowshera Kalan



DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION  
KHYBER PAKHTUNKHWA PESHAWAR.

Phone: 091-0229344

Email: ddadm.ano@gmail.com

(12)

Annexure (E)

**OFFICE ORDER**

As requested by District Education Officer (F) Nowshera vide letter No.4064 dated 16/07/2021, the cancellation order issued vide this Directorate under Endst: No. 233-37 dated 14/07/2021 is hereby Withdrawn.

(DIRECTOR)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa, Peshawar.

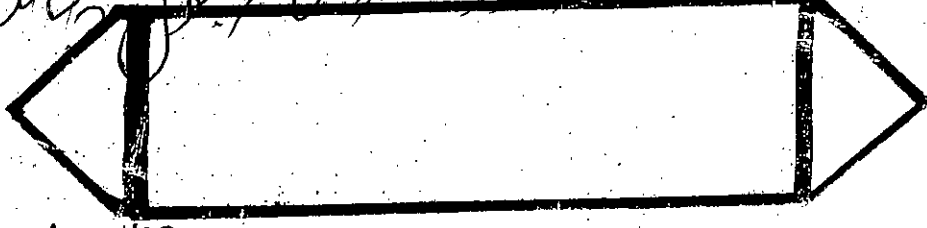
Endst: No. 4038-43 /A-23/MS/Nowshera Vol-IV 2019 Dated 3/8/2021

Copy of the above is forwarded to the: -

1. District Education Officer (F) concerned.
2. Sub Divisional Education Officer concerned.
3. District Account Officer concerned.
4. Principal concerned.
5. Officials concerned.
6. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
7. Master File.

Deputy Director (F&A)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar

بعدالت ضمن عنوان سے دوسری درخواست لکھانے



|       |     |              |        |
|-------|-----|--------------|--------|
| موزخہ | --- | ظاہر علی شاہ | 2 جناب |
| مقدمہ | --- | بی نام       | 2      |
| دعویٰ | --- | بی نام       | 2      |
| جرم   | --- | بی نام       | 2      |

باعث تحریر آنکے

مقدمہ مشدرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام کے اتر کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا مکمل اختیار ہوگا۔ نیز وکیل صاحب کو راشی نامہ کرنے و تقرر ثالثہ فیصلہ بر حلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ار عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زراں پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری کیلئے یا اپیل کی برآمدگی اور منسوخی نیز وائر 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 چہانے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیار حاصل ہوں گے اور اس کا ساختہ پرواخذ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ درجہ جات التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ مشدر ہے۔

الرقوم 27 - 20

کے لئے منظور ہے۔

مقام  
Tariq Ali Shah

**"B"**

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

No.

Appeal No. 7574 of 20 21  
Tahis Ali Shah  
Appellant/Petitioner

D-E-C (Female) <sup>Versus</sup> Nowshira  
Respondent

Respondent No. 4  
Imad ud Din Khattak Junior Clerk

Notice to: —

Office of the SDEO Nowshira.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on 23/11/21 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Along with Stay Application

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....

12th

Day of.....Nov 20 21

For Reply



Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

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

**Service Appeal No. 7574/2021**

Tahir Ali Shah .....Appellant.

Versus

The District Education Officer (F) and others.....Respondents.

**INDEX**

| <b>S.N<br/>o.</b> | <b>Description of<br/>Documents</b> | <b>Date</b> | <b>Annexure</b> | <b>Pages</b> |
|-------------------|-------------------------------------|-------------|-----------------|--------------|
| 1.                | Para wise Comments                  |             |                 |              |
| 2.                | Affidavit                           |             |                 |              |
| 3.                | Authority Letter                    |             |                 |              |
| 4.                |                                     |             |                 |              |

**Deponent**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE**

**TRIBUNAL, PESHAWAR**

**Service Appeal No. 7574/2021**

Tahir Ali Shah .....Appellant.

Versus

The District Education Officer (F) and others.....Respondents.

**Para wise Comments on behalf of Respondent No. 1 to 3.**

**Preliminary Objections:-**

- i. That appellant has no cause of action and locus standi.
- ii. That appellant has not come to the court with clean hands and suppressed material facts from the notice of this Honorable Tribunal. Appellant has already approached Consumer Court for the same alleged cause of action, but he has suppressed this material fact from the notice of this Hon'ble Court (Annexure-R/1).
- iii. That the appeal is not maintainable.
- iv. That the principle of estoppels lies against the appellant.
- v. That appeal is hit by principle of laches. Departmental appeal of the appellant is badly time barred. The impugned order has been passed on 02-08-2021, whereas the departmental appeal is allegedly dated 16-09-2021 with registry receipt dated 17-09-2021. Appellant has also not filed any condonation application along with his memo of appeal, therefore, the instant appeal is not maintainable on the score of limitation.
- vi. That appellant is not an aggrieved person within the meaning of section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

Respectfully Sheweth,

The Parawise Comments on behalf of Respondent No. 1 & 3 are as under:-

1. That Para No.1 is incorrect, hence denied. Appellant is not an aggrieved person within the meaning of section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.



7. That Para No.7 of the appeal is incorrect, hence denied. Appellant is not an aggrieved person within the meaning of section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974.

**Reply to Grounds.**

- A. That Ground "A" of the appeal is incorrect, hence denied. Appellant has been treated in accordance with law, rules and policy on the subject. Appellant failed to comply with order of his transfer and remained absent and more so signed attended register forcefully.
- B. That Ground "B" of the appeal is incorrect, hence denied. Appellant has committed misconduct by signing attendance register forcefully. He was not performing his duty and was transferred under report.
- C. That Ground "C" of the appeal is incorrect, hence denied. The inefficiency and poor performance was maintained by the appellant and he hurdled the smooth carrying of the office work and more so made conspiracy with his other colleagues to sabotaged the office work therefore, he was transferred in public interest.
- D. That Ground "D" of the appeal is incorrect, hence denied. Appellant was time and again afforded opportunity to mend his way and take interest in the official duty, but he failed to heed the legitimate order of the competent authority.
- E. That Ground "E" of the appeal is incorrect, hence denied. The answering respondents has followed the law, rules and policy on the subject and no violation of rule was made. All transfer orders are made in public interest.
- F. That ground "F" of the appeal is incorrect, hence denied. The detail answer has been submitted by the answering respondent. The judgment of the Hon'ble Supreme Court of Pakistan is not applicable in the present case.
- G. That ground "G" of the appeal is incorrect, hence denied. The impugned order has been made by competent authority.

- H. That Ground "H" of the appeal is incorrect, hence denied. Appellant has not been condemned unheard. He has been afforded number of opportunity to mend his way but he did heed to reform himself and competent authority was compelled to issue the impugned order.
- I. That Ground "I" of the appeal is incorrect, hence denied. The detail answer has been submitted in para ibid.
- J. That Ground "J" is incorrect, hence denied. The impugned order has been passed within the frame work of the competent authority.
- K. That Ground "K" is incorrect, hence denied. The impugned order has been passed within the frame work of the competent authority.
- L. That Ground "L" is incorrect, hence denied. Appellant has not come to the Tribunal with clean hand therefore, not entitled for any relief.
- M. That answering respondent would also like to seek the permission of the this Honourable Tribunal to share grounds in rebuttal.

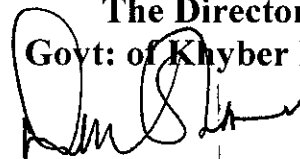
It is therefore, humbly prayed that on acceptance of this parawise reply, this Hon'ble Tribunal may be pleased to dismiss the appeal with cost.



**Respondent No.3**  
**The Secretary (E &SE)**  
**Govt: of Khyber Pakhtunkhwa.**



**Respondent No.2**  
**The Director**  
**Govt: of Khyber Pakhtunkhwa.**



**Respondent No.1**  
**DEO (E & SE), (F)**  
**Nowshera.**



OFFICE OF THE  
SUB DIVISIONAL EDUCATION OFFICER  
(FEMALE) NOWSHERA  
NO. 5251 /Dated 31/05/2021

To

The District Education Officer  
(Female) Nowshera

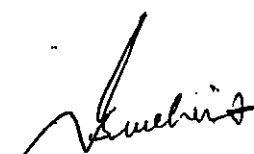
Subject: **DISOBEYANCE/IRREGULARITY IN OFFICE DUTY**

Memo:-

It is stated for your kind information that the following officials of this office are working here and are the responsible persons but they are not doing their duties very well which has badly suffered smooth atmosphere of the office. Behavior and response of each official has been explained below and is submitted for your kind perusal please.

- 1- Zafar Javed S/Clerk is not regular in his duty and often remained absent from duty without any application/prior permission. His demand is to give him the accounts work/seat.
- 2- Tahir Ali Shah J/Clerk has taken so many willful C/Leave and is habitual late comer and taking no interest in his work.
- 3- Asghar Khan J/Clerk has the same position as Tahir Ali Shah and both are insisting to work in the accounts section.

It is further added that being a management officer and head of the office the undersigned has given due task them and directed them several times verbally to do the duty in the best interest of public service but they do not obeyed the orders up till now and that is why I have been compelled to approach your good self and submit a written report about their negligence, misbehavior, bad reputation, non obedience of orders of the seniors, and mis interest in the public service throughout their stay in this office.

  
Sub Divisional Education Officer  
(Female) Nowshera



**SUB DIVISIONAL EDUCATION OFFICER  
(FEMALE) NOWSHERA**

No. 5384 Dated 15/07 /2021

To,

The District Education Officer,  
(Female) Nowshera.

Subject: -

**WITHDRAWAL CANCELLATION ORDER**

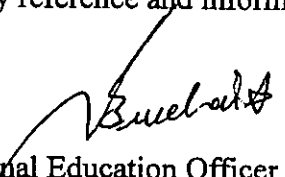
Memo,

Kindly refer to this Office letter No.5251 dated 31/05/2021, and letter No.5371 dated 05/07/2021, pertaining to disobedience, Irregularity and misconduct of the following Officials pointing out their weakness and negligence's in the Office duties.

It is further added that both the officials are involved in grouping system which causes dumping of Office work and create problems for administration. The official concerned are No.01 Mr, Tahir Ali Shah (Junior Clerk) No.02 Mr, Asghar Khan (Junior Clerk) whose further stay in this Office will create more problems for this Office, though the matter is not of the tenure but performances.

Therefore, it is requested to kindly keep them away out of this Office cancelling/withdrawal the cancellation of the Worthy Director E&SE Department Khyber Pakhtunkhwa Peshawar Endst:No. 233-37/A-23/MS/Nowshera Dated Peshawar the 14/07/2021.in the best interest of public service.

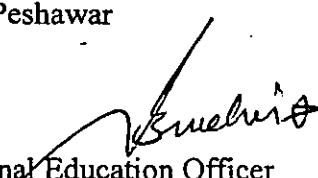
Copies of the above are enclosed herewith for ready reference and information please.

  
Sub Divisional Education Officer  
(Female) Nowshera

**Even No. & Date**

**Copy for information to the:-**

1. Director E&SE Department Khyber Pakhtunkhwa Peshawar

  
Sub Divisional Education Officer  
(Female) Nowshera



**SUB DIVISIONAL EDUCATION OFFICER  
(FEMALE) NOWSHERA**

No. 5371 Dated 5/07/2021

To,

The District Education Officer,  
(Female) Nowshera.

Subject: - **NON COMPLIANCE**

Memo,

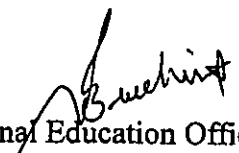
It is submitted that your Office Order Endst; No.3517-23 dated Nowhera the 30/06/2021, has already been implemented effective 02/07/2021 the concerned officials Mr, Tahir Ali Shah and Mr, Asghar Khan had been relived on 02/07/2021 and were directed to report to their newly stations.

it is regretted that the concerned officials remain absent w.e.f 02/07/2021 to 05/07/2021 but it is surprising that both signed the attendance register showing them self present, though they remain absent.

it is further added that the concerned Mr, Tahir Ali Shah & Mr, Asghar Khan habitually were late comers since they took over most of the official work suffered because of their being unskilled careless & irresponsible, while their substitute Mr, Imad Ud Din Khattak and Mr, Zahir Muhammad both are well versed, competent and reliable performing satisfactory.

it is further added that the undersigned has already submitted a report of disobeying & irregularity in duty of the concerned officials to your good Office vide this Office letter No.5251 dated 31/05/2021.

it is requested to kindly direct them to report to their newly posted stations & in case of non compliance i recommend strict disciplinary action against them under E&D rules 2011.

  
Sub Divisional Education Officer  
(Female) Nowshera



OFFICE OF THE  
SUB DIVISIONAL EDUCATION OFFICER  
(FEMALE) NOWSHERA

NO. 5251 /Dated 31/05/2021

To

The District Education Officer  
(Female) Nowshera

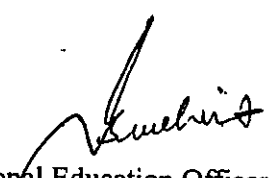
Subject: DISOBEYANCE/IRREGULARITY IN OFFICE DUTY

Memo:-

It is stated for your kind information that the following officials of this office are working here and are the responsible persons but they are not doing their duties very well which has badly suffered smooth atmosphere of the office. Behavior and response of each official has been explained below and is submitted for your kind perusal please.

- 1- Zafar Javed S/Clerk is not regular in his duty and often remained absent from duty without any application/prior permission. His demand is to give him the accounts work/seat.
- 2- Tahir Ali Shah J/Clerk has taken so many willful C/Leave and is habitual late comer and taking no interest in his work.
- 3- Asghar Khan J/Clerk has the same position as Tahir Ali Shah and both are insisting to work in the accounts section.

It is further added that being a management officer and head of the office the undersigned has given due task them and directed them several times verbally to do the duty in the best interest of public service but they do not obeyed the orders up till now and that is why I have been compelled to approach your good self and submit a written report about their negligence, misbehavior, bad reputation, non obedience of orders of the seniors, and misinterest in the public service throughout their stay in this office.

  
Sub Divisional Education Officer  
(Female) Nowshera



OFFICE OF THE  
DISTRICT EDUCATION OFFICER (FEMALE)  
NOWSHERA

No. /DEO(F) NSR/transfer /MS-NSR-dated;----07-2021

To,


The Director E & SE  
Khyber Pakhtunkhwa Peshawar.

Subject; - **CANCELLATION OF TRANSFER ORDER**

Memo,

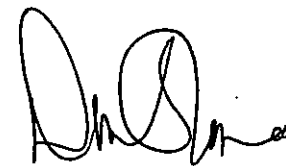
With reference to SDEO(F) Nowshera letter No's 5251- dated ; 31-05-2021 & No. 5371 dated ; 05-07-2021 & No. 5384 dated ; 15-07-2021 & with reference to your good office order Endstt No. 233-37 /A-23/MS- Nowshera dated ; 14-07-2021 on the subject noted above regarding cancellation of transfer in R/o Mr/ Tahir. Ali shah J/clerk & Mr..Asghar khan J/Clerk already transferred to school under report by the concerned SDEO(F) Nowshera , furthermore it is added that the above named official are not fit for office as they are creating problems for administration work as well they are not known for their job description, they are disobedient and irregular in the office duties and the SDEO concerned was not satisfied with the work of those official, therefore they have been transferred to schools and competent hardworking officials has been transferred to SDEO(F) Nowshera for smooth running of office work in the best interest of public .

Therefore, it is requested that the transfer issued vide this office Endstt No. 3517-23 dated ;30-06-2021 may be held (in) a base for smooth running of official work please.

  
District Education Officer (F)  
Nowshera

Endstt No. 4065-67 /DEO (F) NSR/Estab (secy) / cancelation /Dated. 16 /07/2021  
Copy are hereby forwarded to the;-

1. SDEO (F) Nowshera w/r no's cited above .
2. Superintendent Estab local office
3. Office copy

  
District Education Officer (F)  
Nowshera



OFFICE OF THE  
SUB-DIVISIONAL EDUCATION OFFICER  
(FEMALE) NOWSHERA

No. 5398 Dated 30/07/2021.

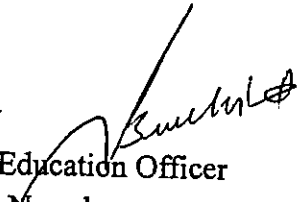
To,

The Honorable Judge  
Consumer Court Nowshera

Subject: ADJOURNMENT OF DATE

It is humbly submitted that I have been working as SDEO (Female) Nowshera. Your good self-submitted a notice of appearance in the Consumer Court on 30/07/2021 to the under signed, but I have many appointments to other Officers/Officials.

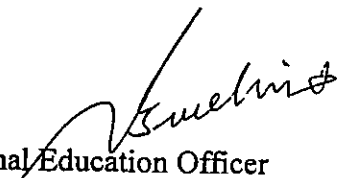
So, it is therefore requested that I cannot attend the Consumer Court on 30/07/2021, may please be adjournment for next date.

  
Sub Divisional Education Officer  
(Female) Nowshera

Even No. & Date

Copy for information to the:-

1. District Education Officer (Female) Nowshera.

  
Sub Divisional Education Officer  
(Female) Nowshera

  
30/07/21  
D.E.O. (F) Nowshera

Diary No. 314

Dated 30/07/21