

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR**  
**AT CAMP COURT SWAT**

Service Appeal No. 7433/2021

Date of Institution ... 22.09.2021

Date of Decision ... 06.10.2022

Sami Ul Haq, Computer Operator (BPS-16) Office of DEO (Male)  
Dir Upper. ... (Appellant)

**VERSUS**

The Secretary, Elementary & Secondary Education, Khyber  
Pakhtunkhwa, Peshawar and two others. ... (Respondents)

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MR. TAIMUR ALI KHAN,  
Advocate --- For appellant.

MR. MUHAMMAD RIAZ KHAN PAINDAKHEL,  
Assistant Advocate General --- For respondents.

MR. SALAH-UD-DIN --- MEMBER (JUDICIAL)  
MS. ROZINA REHMAN --- MEMBER (JUDICIAL)

**JUDGMENT:**


SALAH-UD-DIN, MEMBER:- precisely stated the facts as per averments as raised by the appellant in his appeal are that he was serving as Computer Operator (BPS-16) in Education Department and was posted in the office of DEO (F) Dir Upper. vide order dated 13.11.2019, he was transferred to the office of DEO (M) Dir Upper and he assumed the charge of his post on 14.11.2019. The appellant was then transferred to the office of SDEO (M) Kalkot Dir Upper vide order dated 16.06.2021, however the said order was withdrawn vide cancellation order dated 14.07.2021. The appellant was not allowed to complete his normal tenure and vide impugned order dated 03.09.2021, he was transferred from the office of DEO (M) Dir Upper by placement of his services at the disposal of DEO (M) Dir Upper for further adjustment against any vacant post but with the restriction of his posting in the



DEO (Male/Female) offices. The departmental appeal of the appellant was not responded one way or the other, hence the instant service appeal.

2. Respondents contested the appeal by way of submitting para-wise comments, wherein they refuted the assertions as raised by the appellant in his appeal.

3. Learned counsel for the appellant has argued that the impugned transfer order dated 03.09.2021 is against law as well as in violation of Posting/Transfer Policy; that the appellant has been transferred prematurely without completing his normal tenure in office of DEO (M) Dir Upper; that in a short span of time, the appellant has been transferred time and again, creating hardship for the appellant; that putting clog on posting of the appellant in the offices of DEO (Male) and DEO (Female) is against law/rules and shows mala-fide on the part of the respondents; that the post of the appellant in the office of DEO (Male) Dir Upper has been still kept vacant for accommodating any blue eyed of the respondents; that one Shaibzada Ihtisham Ullah, who was working in the office of DEO (Female) Dir Upper was transferred to GGHS Duro vide order dated 23.11.2020, however in wake of political influence, he was transferred to the office of SDEO (Female) Dir Upper as Senior Clerk after just two days and was again transferred/adjusted in the office of DEO (Female) Dir Upper just after one month; that the respondents are using double standards in transfer/posting and have treated the appellant with discrimination; that the impugned transfer order of the appellant is outcome of mala-fide on the part of the respondents, therefore, the same is liable to be set-aside.



4. On the other hand, learned Assistant Advocate General for the respondents has argued that the appellant had completed one year tenure as prescribed for hard area, therefore, his services were placed at the disposal of DEO (Male) Dir Upper for adjustment against any vacant post; that the appellant had served his tenure in the offices of

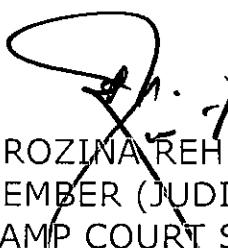
DEO (Male) as well as DEO (Female) Dir Upper, therefore, it was ordered that he may not be posted in the said offices; that the appellant has been treated in accordance with Posting/Transfer Policy as well as relevant rules and no discrimination has been caused to him.

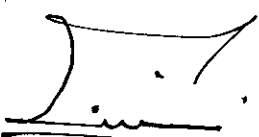
5. We have heard the arguments of learned counsel for the parties and have perused the record.

6. A perusal of the record would show that vide impugned order dated 03.09.2021, services of the appellant has been placed at the disposal of DEO (Male) Dir Upper for further adjustment against any vacant post, except any post in the offices of DEO (Male/Female) Dir Upper. The column of remarks does not show any exigency, which compelled the Authority to put clog on posting of the appellant in the offices of DEO (Male/Female) Dir Upper. The departmental appeal of the appellant has remained un-responded, therefore, it deem appropriate that the appellate Authority should first decide the same in accordance with relevant law/rules. We would thus refrain to give any finding on merits of the case, so as to avoid any prejudice being caused to any of the party.

7. Consequently, the departmental appeal of the appellant is remitted to the appellate Authority with the directions to decide the same through a speaking order in accordance with relevant law/rules within a period of one month of receipt of copy of this judgment and until then, the operation of impugned order dated 03.09.2021 shall remain suspended. The appeal in hand is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
06.10.2022

  
(ROZINA REHMAN)  
MEMBER (JUDICIAL)  
CAMP COURT SWAT

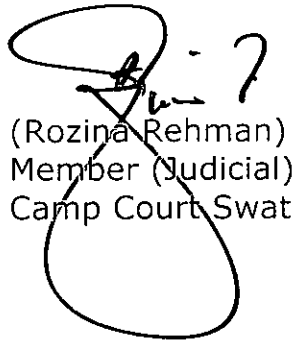
  
(SALAH-UD-DIN)  
MEMBER (JUDICIAL)  
CAMP COURT SWAT

O R D E R  
06.10.2022

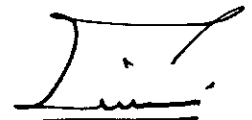
Learned counsel for the appellant present. Syed Alam Zeb Shah, Law Officer alongwith Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the departmental appeal of the appellant is remitted to the appellate Authority with the directions to decide the same through a speaking order in accordance with relevant law/rules within a period of one month of receipt of copy of this judgment and until then, the operation of impugned order dated 03.09.2021 shall remain suspended. The appeal in hand is disposed of accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
06.10.2022



(Rozina Rehman)  
Member (Judicial)  
Camp Court Swat

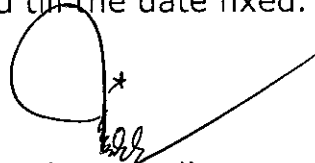


(Salah-Ud-Din)  
Member (Judicial)  
Camp Court Swat

07.09.2022

Mr. Mujeeb-ur-Rehman, Advocate as proxy for learned counsel for the appellant present. Syed Alamzeb Shah, Legal Advisor alongwith Mr. Riaz Ahmed Paindakhel, Assistant Advocate General for the respondents present and submitted para-wise comments on behalf of the respondents, which is placed on file.

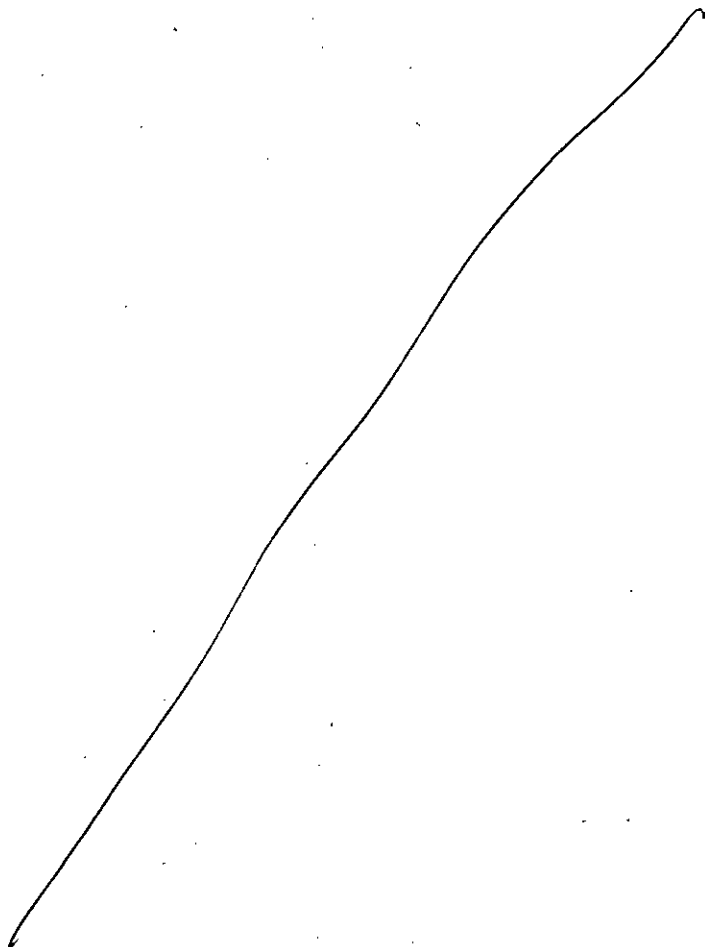
Mr. Mujeeb-ur-Rehman, Advocate stated that he has been informed by learned counsel for the appellant that he would be unable to appear today before the Service Tribunal at Camp Court Swat due to his engagement before the Principal seat of Service Tribunal at Peshawar, therefore, adjournment may be granted. Adjourned. To come up for arguments on 06.10.2022 before the D.B at Camp Court Swat. The operation of impugned order dated 03.09.2021 to the extent of appellant shall remain suspended till the date fixed.



(Mian Muhammad)  
Member (Executive)  
Camp Court Swat



(Salah-Ud-Din)  
Member (Judicial)  
Camp Court Swat



15<sup>th</sup> April, 2022

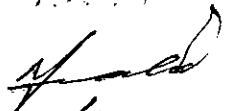
Counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG for the respondents present.

Reply has not been submitted. Last chance is given to the respondents to appear in person and submit reply on the next date subject to cost of Rs. 10000/- (Ten thousand). To come up for arguments on 11.05.2022 before the D.B at camp court, Swat.

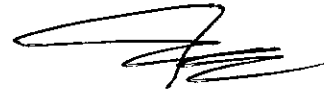
  
(Rozina Rehman)  
Member(J)

  
Chairman

11-5-22  
Proper DB not available the case is  
adjourned on 08-7-22

  
Member

08-8-22  
Due to summer vacation the case  
is adjourned to 7-9-22 for the same.



08.11.2021

Clerk of counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Clerk of counsel for the appellant stated that learned counsel for the appellant is unable to attend the Tribunal today due to strike of Lawyers. Adjourned To come up for arguments before the D.B. on 10.02.2022.



(ATIQU-UR-REHMAN WAZIR)  
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)  
MEMBER (JUDICIAL)

10-2-2022

Due to retirement of the Honorable  
Chairman the case is adjourned to  
come up for the same as before  
on 15-04-2022



Reader



23.09.2021

Counsel for the appellant present. Preliminary arguments heard.

The appellant through this appeal has impugned the transfer order dated 03.09.2021, whereby he has been transferred from the office DEO(M) Dir Upper with placement of his services at the disposal of DEO (M) Dir Upper for further adjustment against any vacant post but with restriction of his posting in the DEO(Male/Female) offices. Let the respondents be heard in regular hearing as to exigencies of the said transfer with restriction of the posting of the appellant in two offices. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days of the receipt of notices positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office is directed to submit the file with a report of non-compliance. File to come up for arguments on 08.11.2021 before the D.B.

Appellant Deposited  
Security Process Fee

An application has been submitted alongwith memorandum of appeal for suspending the operation of order dated 03.09.2021 till decision of the main appeal. Notice of the application be given to the respondents. The operation of impugned order dated 03.09.2021 to the extent of appellant shall remain suspended till date fixed.

  
Chairman





Form- A

FORM OF ORDER SHEET

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

Case No.- 7433 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	22/09/2021	<p>The appeal of Mr. Samin-ul-Haq presented today by Mr. Taimur Ali Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>23/09/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CHECK LIST

Case Title: Samiul Haq vs EDU Deptt

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

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

Name: Taimur Ali Khan

Signature: [Signature]

Dated: \_\_\_\_\_

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

SERVICE APPEAL NO. 7433 /2021

Sami Ul Haq

V/S

Education Deptt:

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**INDEX**

S. No.	Documents	Annexure	P. No.
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02	Affidavit	-----	05
03	Suspension application	-----	06-07
04	Copies of order dated 13.11.2019 and charge report	A&B	08-09
05	Copies of order dated 16.06.2021 and 14.07.2021	C&D	10-11
06	Copy of order dated 03.09.2021	E	12
07	Copy of departmental appeal	F	13-15
08	Copies of posting/transfer policy and circular dated 27.02.2013	G&H	16-24
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APPELLANT

THROUGH:

  
(TAIMUR ALI KHAN)  
ADVOCATE HIGH COURT

&  
(ASAD MAHMOOD)  
ADVOCATE HIGH COURT  
Room No. FR 8, 4<sup>th</sup> Flour,  
Bilour plaza, Peshawar cantt:  
Cell# 0333-9390916

**BEFORE THE KHYBER PAKHYUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

SERVICE APPEAL NO. 7433/2021

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 7622

Dated 22/9/2021

Mr. Sami Ul Haq, Computer Operator (BPS-16)  
Office of DEO (Male) Dir Upper.

(APPELLANT)

**VERSUS**

1. The Secretary, Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.
2. The Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. The District Education Officer, (Male), Dir Upper.

(RESPONDENTS)

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APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED TRANSFER ORDER DATED 03.09.2021, WHEREBY THE APPELLANT WAS PREMATURELY TRANSFERRED FROM THE OFFICE OF DEO (M) DIR UPPER AND PLACED AT THE DISPOSAL OF DEO (M) DIR UPPER FOR FURTHER ADJUSTMENT AGAINST ANY VACANT POST AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT AS PER POSTING TRANSFER POLICY.

Filed to-day

Registrar

22/09/2021

**PRAYER:**

THAT ON THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED TRANSFER ORDER DATED 03.09.08.2021 MAY KINDLY BE SET ASIDE BEING PREMATURE AND PASSED IN VIOLATION OF POSTING/TRANSFER POLICY AND CIRCULAR DATED 27.12.2013. THE RESPONDENTS MAY FURTHER BE DIRECTED NOT TO TRANSFER THE APPELLANT PREMATURELY AND IN VIOLATION OF

**POSTING/TRANSFER POLICY AND CIRCULAR DATED 27.02.2013. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.**

**RESPECTFULLY SHEWETH:**

**FACTS:**

1. That the appellant is the performing his duty as Computer Operator (BS-16) in Education Department and working in the office of DEO (M) Dir Upper and is performing his duty with great devotion and honesty, whatsoever, assign to him and no complaint has been filed regarding his performance by his superior.
2. That the appellant was transferred from the office of DEO (F) Dir Upper to the office of DEO (M) Dir Upper through order dated 13.11.2019 and the pursuance of that order the appellant took over charge on the post on 14.01.2019. **(Copies of order dated 13.11.2019 and charge report are attached as Annexure-A&B)**
3. That the appellant was then transferred from the office of DEO (M) Dir Upper to the office of SDEO (M) Office Kalkot Dir Upper vide order dated 16.06.2021 and just after one month order dated 16.06.2021 was withdrawn by respondent No.2 through cancellation order dated 14.07.2021. **(Copies of order dated 16.06.2021 and 14.07.2021 are attached as Annexure-C&D)**
4. That the appellant was again transferred by respondent No.2 from the office of DEO (M) Dir Upper without completing his normal tenure in the office of DEO (Male) Dir upper and his services was placed at the disposal DEO (M) Dir Upper for further adjustment against any vacant post vide order dated 03.09.2021 and mentioned in the remarks column that the appellant will not be posted in DEO (M/F) Office. **(Copy of order dated 03.09.2021 is attached as Annexure-E)**
5. That the appellant filed departmental appeal within 7 days as per posting transfer policy on 06.09.2021, but no decision has been taken on his departmental appeal within the stipulated period of time frame of 15 days as per posting transfer policy of the Provincial Government. **(Copy of departmental appeal is attached as Annexure-F)**

6. That the appellant has no other remedy except to file the instant appeal in this Honourable Tribunal for redressal of his grievance on the following grounds amongst others.

**GROUND:**

- A. That impugned transfer order dated 03.09.2021 is against the law, facts, norms of justice, violation of posting transfer policy and circular dated 27.2.2013, therefore, not tenable and liable to be set aside.
- B. That the impugned transfer order dated 03.09.2021 was passed in violation of posting transfer/policy and circular based on Anita Turab case dated 27.02.2013, therefore, the impugned transfer order is liable to be set aside on this ground alone. **(Copies of posting/transfer policy and circular dated 27.02.2013 are attached as Annexure-G&H)**
- C. The impugned transfer order is premature as the appellant has not completed his tenure in the office of DEO (M) Dir Upper, therefore, the impugned transfer order is liable to be set aside.
- D. That the appellant has been transfer for so many times in short spin of time due to which he was unable to perform his duties with best of his ability and capability and such successive transfers has been discouraged by the superior Courts in plethora of judgments and as such the impugned transfer order is liable to be set aside.
- E. That the appellant was transferred from the office of DEO (M) Dir Upper and his service was placed at the disposal of DEO (M) Dir Upper for further adjustment against any vacant post through impugned transfer order dated 03.09.2021 and in remarks column in that order it was mentioned that the appellant will not be posted in DEO (M/F) Office, which shows the malafide of respondent No.2.
- F. That no exigencies or public interest has been shown by respondent No.2 in passing the impugned transfer, but want to adjust blue eyed person on the post of the appellant.
- G. That according to posting/transfer policy, that posting/transfer orders of all the officers up to BS-19 except the Heads of the Attached Departments irrespective of the grade will be notified by the concerned Administrative Departments with the prior approval of the Competent Authority obtained on the Summary, but in the case of the appellant, no prior approval of Summary for transfer was obtained, which is violation of posting/transfer policy.
- H. That the post of the appellant in the office of DEO (M) Dir Upper is still vacant as no substitute was provided on the post of the appellant

by the department in the impugned transfer order and it will not effect any one if the impugned transfer is set aside.

- I. That one of the junior Clerk namely Sahibzada Ihtisham Ullah working in the office of DEO (F) Dir Upper was transferred to GGHS Duro vide order dated 23.11.2020 on shuffling, but having political influence he was transferred just after two days from GGHS Duro against the vacant post of senior clerk at SDEO (F) Dir Upper on 25.11.2020 and was again transferred/adjusted in the office of DEO (F) Dir Upper just after one month by respondent No.2, while the appellant who has no sanctioned post for adjustment except in the office DEO (M&F) and SDEO (M&F) has transferred from the office of DEO (M) Dir Upper through impugned transfer order dated 03.09.2021 and also mentioned in that order that the appellant will not be posted in the office of DEO(M&F), which shows the malafide of respondent No.2. **(Copies of order dated 25.11.2020 and 29.12.2020 are attached as Annexure-I&J)**
- J. That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore most humbly prayed that the appeal of the appellant may kindly be accepted as prayed for.

*Jami*

**APPELLANT**  
Sami Ul Haq

THROUGH:

*(Signature)*

**(TAIMUR ALI KHAN)**  
**ADVOCATE HIGH COURT**  
&

**(ASAD MAHMOOD)**  
**ADVOCATE HIGH COURT**

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

SERVICE APPEAL NO. \_\_\_\_\_/2021

Sami Ul Haq

V/S

Education Deptt:

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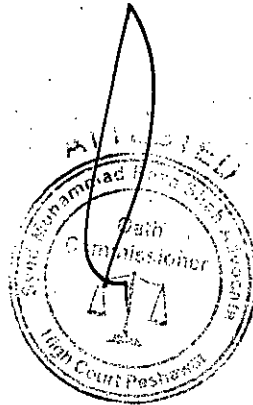
**AFFIDAVIT**

I, Sami Ul Haq, Computer Operator (BPS-16) Office of DEO (Male) Dir Upper, (Appellant) do hereby affirm and declare that the contents of this service appeal are true and correct and nothing has been concealed from this Honourable Tribunal.



**DEPONENT**

Sami Ul Haq  
(APPELLANT)





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

SERVICE APPEAL NO. \_\_\_\_\_/2021

Sami Ul Haq

V/S

Education Deptt:

**APPLICATION FOR SUSPENDING THE OPERATION**  
**OF ORDER DATED 03.09.2021 TILL THE DECISION OF**  
**MAIN SERVICE APPEAL.**

**RESPECTFULLY SHEWETH:**

- 1) That the appellant has filed the service appeal against the impugned transfer order 21.03.2019, whereby the appellant was transferred from the office of DEO (M) Dir Upper along with this application in this Honourable Service Tribunal in which no date is fixed so for.
- 2) The impugned transfer order is premature as the appellant has not completed his tenure in the office of DEO (M) Dir Upper, which is violation of posting/transfer and circular dated 27.02.2013, therefore, the impugned transfer order is liable to be suspended.
- 3) That the appellant has been transfer for so many times in short spin of time due to which he was unable to perform his duties with best of his ability and capability and such successive transfers has been discouraged by the superior Courts in plethora of judgments and as such the impugned transfer order is liable to be suspended.
- 4) That the post of the appellant in the office of DEO (M) Dir Upper is still vacant as no substitute was provided on the post of the appellant by the department in the impugned transfer order and it will not effect any one if the impugned transfer is suspended.
- 5) That the appellant has a good prima facie case and all the three ingredients are in favour of the appellant.
- 6) That the grounds of main appeal may also be considered as integral part of this application.

It is therefore most humbly prayed that the operation of the order dated 03.09.2019 may kindly be suspended till the decision of main appeal.

*Jami*

APPELLANT

THROUGH:

*Ali Khan*

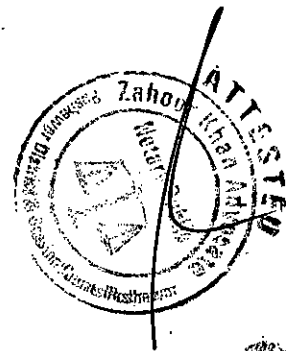
(TAIMUR ALI KHAN)  
ADVOCATE HIGH COURT

**AFFIDAVIT**

It is solemnly affirmed that the contents of the application is true and correct to best of my knowledge and belief and nothing has been concealed from this Honourable Service Tribunal.

*Jami*

DEPONENT





AB

Office Order.

Mr. Samiul Haq Computer Operator BPS-16 office of the DEO (F) Dir Upper is hereby transferred/adjusted against vacant post of Computer Operator at DEO (M) Dir Upper on his own pay and BPS in the interest of public service with effect from the date of his taking over charge.

Note:


1. Charge report should be submitted to all concerned.
2. No TA/DA is allowed.


**DIRECTOR**  
Elementary & Secondary Education  
Khyber Pakhtunkhwa, Peshawar

Endst: No. 7526-30 / F.No. / A-23/MS/KPO/Comp:Opt/AD(Admn) Dated Peshawar the 13/11/2019.

Copy forwarded to the: -

1. District Education Officer (Male) Dir Upper w/r to his letter No3489 dated 07/11/2019.
2. District Education Officer (Female) Dir Upper.
3. District Accounts Officer Concerned.
4. Official concerned.
5. Master File.
6. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.

  
Assistant Director (Admn)  
Directorate of Elementary & Secy: Education  
Khyber Pakhtunkhwa, Peshawar

**ATTENDED**  




**GOVERNMENT OF KHYBER PAKHTUNKHWA**  
**OFFICE OF THE DISTRICT EDUCATION OFFICER**  
**MALE DIR UPPER**



PH No. 0944-881400

E-mail [deomdirupper@gmail.com](mailto:deomdirupper@gmail.com)

B (9)

**CHARGE REPORT.**

In pursuance of the transfer/adjustment order from District Education Officer(Female) Dir Upper to the Office of District Education Officer (M) Dir Upper issued vide Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar No:7526-30/F: No: A-23/MS/KPO/Comp: opt(Admn) dated Peshawar 13/11/2019.

I **Samiul Haq Computer Operator** BPS:16 took over charge of my duties at the office of District Education Officer(male) Dir Upper against vacant post of computer operator today on **14/11/2019** in pursuance of the aforementioned notification.

*Sami*  
 (SAMIUL HAQ),  
 COMPUTER OPERATOR BPS:16  
 OFFICE OF DEO(M)DIR UPPER.

**OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) DISTRICT DIR UPPER.**

Endst No: 3750-54 / dated Dir Upper the: 14/11/2019

Copy forwarded to:

- 1- Director E&SE Khyber Pakhtunkhwa Peshawar for information.
- 2- District Accounts Officer Dir Upper.
- 3- District Education Officer (Female) Dir Upper for information.
- 4- Accountant local office.
- 5- Office record.

*Fahw*  
 DISTRICT EDUCATION OFFICER  
 (MALE) DISTRICT DIR UPPER.

*AI*



**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION  
KHYBER PAKHTUNKHWA PESHAWAR.**

Phone: 091-9225344

Email: ddadm.ese@gmail.com

**Office Order.**

Mr. Sami Ul Haq KPO BS-16 office of the DEO Male Dir Upper is hereby transferred/adjusted against the vacant post of KPO at SDEO (Male) Kalkot Dir Upper in his own pay and scale in the interest of public service with effect from the date of his taking over charge

**Note:**

1. Charge report should be submitted to all concerned.
2. No TA/DA is allowed.

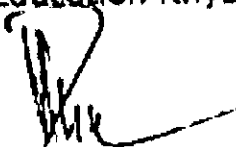
**DIRECTOR**  
Elementary & Secondary Education  
Khyber Pakhtunkhwa, Peshawar

1448-52  
Endst: No. \_\_\_\_\_ / F.No. / A-23/MS/Dir Lower

Dated Peshawar the 16/16 /2021.

**Copy forwarded to the: -**

1. District Education Officer (Male) Dir Upper.
2. District Accounts Officer Concerned.
3. SDEO Male Concerned.
4. Official concerned.
5. Master File.
6. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.

  
**Deputy Director (F&A)**  
Directorate E& Secondary Education  
Khyber Pakhtunkhwa, Peshawar

1448(5)  
sent to file



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

### CANCELLATION

As requested by DEO (M) Dir Upper vide No. 575 dated 18/06/2021, the transfer order in r/o Mr. Sami ul Haq KPO BS-16 office of the DEO (M) Dir Upper (under transfer to SDEO (M) Kalkot Dir Upper), issued vide this Office under Endst: No:1448-52 dated 16/06/2021 is here by Withdrawn.

**DIRECTOR**  
Elementary & Secondary Education  
Khyber Pakhtunkhwa, Peshawar.

Endst: No. 147-151 /A-23/MS/Dir Lower Vol-05

Dated Peshawar the 14/07/2021.

Copy of the above is forwarded to the: -

1. District Education Officer (M) Dir Upper w/r to his letter No.575 dated 18/06/2021.
2. District Account Officer concerned.
3. SDEO (M) Concerned
4. Official concerned.
5. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
6. Master File

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

*[Signature]*  
**ATTESTED**



12

**OFFICE ORDER**

The posting/transfer in respect of the following officials is hereby ordered on their own pay and BPS in the interest of public service with effect from the date of their taking over charge.

S.#	Name/Design:	Present Posting	Adjustment at	Remarks
1	Mr. Sami Ul Haq Computer Operator B-16	DEO (M) Dir Upper	Service place at the disposal of DEO (M) Dir Upper for further adjustment against any vacant post.	Except DEO (M/F) Office.
2	Amin Ur Rahman Steno B-14	DEO (M) Dir Upper	Service place at the disposal of DEO (M) Dir Upper for further adjustment against any vacant post.	Except DEO (M/F) Office.

Note:-

1. Compliance report should be submitted to all concerned.
2. No TA/DA etc is allowed.

**DIRECTOR**  
Elementary & Secondary Education  
Khyber Pakhtunkhwa, Peshawar

Endst: No. 50/0-14 /F.No. /A-23/MS/Transfer/Dir Upper  
Dated Peshawar the 3/9 /2021

Copy forwarded to the: -

1. District Education Officer (M/F) Concerned.
2. District Account Officer concerned.
3. Official concerned.
4. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
5. Master File.

**Additional Director (PE&S)**  
Directorate E& Secondary Education  
Khyber Pakhtunkhwa, Peshawar

3/9/21

*[Handwritten signature]*

To

The worthy Secretary  
Elementary & Secondary Education  
Khyber Pakhtunkhwa, Peshawar.

**Subject: DEPARTMENTAL APPEAL AGAINST THE ORDER DATED 03.9.2021, WHEREBY THE APPELLANT WAS TRANSFERRED FROM THE OFFICE OF DEO (MALE) AND WAS PLACED AT DISPOSAL OF DEO (M) DIR UPPER FOR FURTHER ADJUSTMENT AGAINST ANY VACANT POST.**

Respectfully Sir,

1. That the appellant is performing his duty as Computer Operator (BS-16) in Education Department and working in the office of DEO (M) Upper and is performing his duty with great devotion and honesty, whatsoever, assign to him and no complaint has been filed regarding his performance by his superior.
2. That The appellant was transferred from DEO(F) Dir Upper to DEO(M) Dir Upper through order dated 13/11/2019 and the pursuance of that order the appellant took over charge on the post on 14/11/2019.
3. That the appellant was then transferred from DEO (M) Dir Upper to SDEO(M) Office Kalkot Dir Upper vide order Director E&SE KP Dated 16/6/2021. However that order was also withdrawn through in order dated 14/7/2021.
4. That now the appellant was again transferred from the office of DEO (M) Dir Upper without completing his normal tenure in the office of DEO (Male) Dir upper and his services was placed at the disposal (M) Dir Upper for further adjustment against any vacant post through in order

**ATTACHED**



14

dated 03/09/2021 and mentioned in the remarks column that the appellant will not be posted in DEO (M/F) Offices. **(copy of order dated 03/09/2021 is attached as R-1)**

5. That the appellant being aggrieved from the order 3/9/20212 wants to file Departmental appeal on the following grounds amongst others.

**GROUND:**

- A. That impugned transfer order dated 3/9/2021 is against the law facts norms of justice, violation of posting transfer policy and circular dated 27/2/2013, therefore, not tenable and liable to be set aside.
- B. That the impugned transfer order is clear violation of posting transfer policy and circular dated 27/2/2013 and liable to be set aside on this ground alone.
- C. That the appellant has not completed his normal tenure in the office of DEO(M) Upper Dir in a such the impugned the transfer order dated 3/9/201 is liable to be set aside.
- D. That no exigency or public interest has been shown in the impugned order dated 3/9/2021 and in remarks column in that order it was mention that the appellant will not be posted in DEO(M/F) Office, which show that blue eyed person will be adjusted on the post appellant.
- E. That the appellant has been transfer for so many time in short spin of time due to which he is unable to perform his duties with best of his ability and capability and such success of transfer has been discouraged by the superior Courts in plethora of judgments.

**ATTACHED**

15

It is therefore most humbly requested that on the acceptance of this appeal, the impugned transfer order dated 03/09/2021 may kindly be set aside and the appellant may be allowed to perform his duty in the office of DEO (M) Dir Upper till completion of his normal tenure.

*Samiul* Appellant  
6/9/2021  
Samiul Haq Computer Operator,  
Office of DEO (M) Dir upper.

*[Faint signature]*



GOVERNMENT OF NWFP  
ESTABLISHMENT & ADMINISTRATION  
DEPARTMENT  
(Regulation Wing)

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) The normal tenure of posting shall be three years subject to the condition that for the officers/officials posted in unattractive areas the tenure shall be two years and for the hard areas the tenure shall be one year. The unattractive and hard areas will be notified by the Government.
- v) { }
- vi) While making postings/transfer from settled areas to FATA and vice-versa, specific approval of Governor, NWFP needs to be obtained

<sup>2</sup>While making postings/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. 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.

- vi (a) All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for atleast 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.

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 Rules 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.  
<sup>2</sup> Added vide Urdu circular letter No. SOR-VI(E&AD)1-4/2005, dated 21-09-2005

ATTESTED

- viii) No posting/transfers of the officer's/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  
 DCOs 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 b) Within the Secretariat from one Department to another.	Secretary of the Department concerned. Chief secretary/Secretary Establishment.
3.	Officials up to the rank of Superintendent:	

Added vide Urdu circular letter No: SOR-VI (E&AD)/1-4/2005, dated 9-9-2005.

ATTESTED

ATTESTED

a) Within the same Department	Secretary of the Department concerned.
b) To and from an Attached Department	Secretary of the Dept in consultation with Head of Attached Department concerned.
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.

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 posing/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.

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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.

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).

It has been decided by the Provincial Government that posting/transfer orders of all the officers up to BS-19 except Heads of Attached Departments irrespective of grades will be notified by the concerned Administrative Departments with prior approval of the Competent Authority obtained on the Summary. The Notifications/orders should be issued as per specimen given below for guidance.

All posting/transfer orders of BS-20 and above and Heads of Attached Departments (HAD) shall be issued by the Establishment Department and the Administrative Departments shall send approved Summaries to E&A Department for issuance of Notifications.

SPECIMEN NOTIFICATION.

GOVERNMENT OF NWFP  
NAME OF ADMINISTRATIVE  
DEPARTMENT

Dated Peshawar, \_\_\_\_\_

NOTIFICATION

NO. \_\_\_\_\_ The Competent Authority is pleased to order the transfer of Mr. \_\_\_\_\_ Department and to post him as \_\_\_\_\_ in the interest of public service, with immediate effect.

CHIEF SECRETARY  
GOVERNMENT OF NWFP

Endst. No. and date even.  
Copy forwarded

- 1.
- 2.
- 3.
- 4.

ATTESTED

5.

(NAME)  
SECTION OFFICER  
Administrative Department

{Authority: Letter No. SO (E-I) E&AD/9-12/2006 dated 22-12-2006}.

The competent authority has been pleased to direct that Para 1(v) of the Posting/Transfer Policy contained in this Department letter No:SOR-I (E&AD) 1-1/85 Vol-II, dated 15-2-2003 shall stand deleted, with immediate effect, consequently allowing the authorities, competent under the NWFP Government Rules of Business, 1985 and the District Government Rules of Business, 2001 or any other rules for the time being in force, to make posting/transfers of Government servants, any time during the year, in genuinely deserving and necessary cases, in public interest, subject to strict observance of all other provisions of posting/transfer policy contained and notified vide circular letter under reference. Hence there will be no ban on posting/transfer of Government Servants in any part of the year while carrying out postings/transfers of Government Servants.

The authorities concerned will ensure that no injustice whatsoever is caused to any civil servant, public work is not suffered and service delivery is improved.

I am therefore directed to request that the provisions of posting/transfer policy, as amended to the extent above, may kindly be followed in letter and spirit in future so as to keep good governance standard in this regard.  
{Authority: Letter No: SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-6-2008}.

.....  
According to the policy of the provincial Government, maximum tenure on a post is three years. Contrary to the Policy, Store Keepers, Cashiers, Accountants and other ministerial staff remains posted in their particular field for long time, which may result in misuse of this position, due to which not only public exchequer may sustain loss but general public also suffers. The Provincial Government has taken serious notice of this situation & decided that all Administrative Secretaries and DCOs may submit a certificate within one month to the effect that above mentioned officials, having completed three years on their posts, have been adjusted on posts other than those they held previously.  
{Authority: Urdu circular No: SOR-VI (E&AD)/05 dated 28<sup>th</sup> Oct, 2005.}

.....  
The Chief Minister NWFP has directed, that:-

- i) Submission of summary would not be required in case of mutual transfer.
- ii) Posting/transfer shall be made according to the policy;
- iii) Government Servants shall avoid direct submission of applications to the Chief Minister;
- iv) In genuinely deserving case, they should approach the Administrative Secretaries who could process the case according to policy;

ATTESTED

ATTESTED

- v) In case of direct submission of application to the Chief Minister Secretariat for Posting/ Transfer, the concerned govt servants shall be proceeded against under the prevalent rules and regulations.

{Authority: Urdu circular No; SOR-VI/E&AD/1-4/2003, dated 86-2004.  
Urdu Letter No: SOR-VI/E&AD/Misc: /2005, dated 3-1-2005.}

It has been decided with the approval of the competent authority that:-

- i) Mutual transfer would be allowed if both the concerned employees agree; except the Government Servants holding Administrative posts;
- ii) NWFP Government Rules of Business 1985 shall be observed while issuing posting/transfer orders.

{Authority: - Urdu circular letter No: SOR (E&AD)/1-4/2005, dated 9-9-2005}

The competent authority has decided that in order to maintain discipline, enhance performance of the departments and ensure optimum service delivery to the masses, the approved /prevalent policy of the posting/transfer shall be strictly followed. Government Servants violating the policy and the NWFP Govt Servants (Conduct) Rules 1987 shall be proceeded against under the NWFP Removal from Service (Special Powers) Ordinance 2000. As required under the NWFP Govt Rules of Business 1985, the Administrative Secretaries shall ensure compliance with the policy and defaulting offices/officials be taken to task & entries to this effect shall be made in their PERs/ACRs. In case subordinate officers are working on sites or proceeding for the purpose of inspection, they shall submit inspection Report to their Administrative Secretariat. Administrative Secretaries shall ensure submission of such reports.

{Authority: - Urdu circular No: SOR-VI (E&AD)/1-4/06, dated, 29-6-2007}

### PLACEMENT POLICY

In order to utilize the expertise of the officers who have received foreign training in various fields, the provincial Government has decided to adopt the Placement Policy, approved by the Prime Minister of Pakistan, and make it a part of its Posting/Transfer Policy. Placement Policy as follows:-

- i) All placements would be made on the basis of merit and keeping in view the needs of the organization.
- ii) The first priority in placement must go to the parent organization of the participant from where the individual had applied. This will be in consonance with the concept of establishing the "Need" for the department and fulfilling the need through "capacity building for the organization.
- iii) In order to follow the "bottom up approach" for Devolution, the priority within departments must go to the Districts, the Provinces and than the Federal Government.
- iv) The second priority in placement should go to up-grading the existing training Institution within the country. The knowledge gained by the

Placement Policy has been made part of the posting/transfer policy vide Urdu circular No.SOR-VI(E&AD)1-4/06, dt 9-2-2007



officers, will be of immense value to bring about a qualitative change in the training institutions. The following proposals are made in this regard:

- a) Permanent posting of an officer to the training institutions for 2-3 years;
- b) Temporary attachment with the training institutions for 3 to 6 months for some research project on helping in developing case studies;
- c) Earmarked as a visiting faculty member for specific subject.
  
- v) Individuals posted to their parent organizations will also organize training for their subordinates within the department, in order to transfer the knowledge and bring about a qualitative change internally;
- vi) The Normal tenure of posting as already provided in the policy would be ensured;
- vii) No participant should be allowed to be posted on deputation to multinational donor agencies for at least 5 years;
- viii) No participant will decline/represent against his/her posting.

\*\*\*\*\*

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GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(REGULATION WING)  
NO. SOR.VI (E&AD)1 -4/2005/Vol-II  
Dated Peshawar, 27<sup>th</sup> February, 2013

Government of Khyber Pakhtunkhwa  
Establishment Department  
No. SOR.VI (E&AD)1 -4/2005/Vol-II  
Dated Peshawar, 27-2-2013

To  
*[Handwritten signature]*

1. The Additional Chief Secretary (P&D) Khyber Pakhtunkhwa.
2. The Additional Chief Secretary (FATA) Khyber Pakhtunkhwa.
3. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
4. All Commissioners in Khyber Pakhtunkhwa.

Subject: CONSTITUTION PETITION NO.23 OF 2012 OUT OF SUO MOTO CASE NO. 3/2012 (PETITION BY MS. ANITA TURAB FOR PROTECTION OF CIVIL SERVANTS REGISTERED UNDER ARTICLE 184 (3) OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973.)

Sir,

I am directed to refer to the subject noted above and to state that the Supreme Court of Pakistan vide the subject cited judgment has enunciated the following principles of Law with regard to protection and conduct of civil servants.

- (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.

*[Handwritten notes: AS, SO, 4/3, raj]*

*[Handwritten signatures and stamps: Sd/- Secy, Sd/- Secy Est, 573, ATTESTED]*

201

- (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. If at all an officer is to be posted as OSD, such posting should not exceed 03 months. If there is a disciplinary inquiry going on against him/her such inquiry must be completed at the earliest. The officer on special duty may be posted against a post of his/her equivalent pay scale/grade within 03 months of his/her order as OSD.

2. I am, therefore, directed to request you to note the above principles of law for strict compliance.

Yours faithfully,  
*NAJAM*  
 (NAJ-MUS-SAHAR)  
 SECTION OFFICER (REG-VI)

Encl: as above.

A copy is forwarded to:-

1. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. The Secretary Provincial Assembly, Khyber Pakhtunkhwa.
4. The Accountant General, Khyber Pakhtunkhwa.
5. The Registrar, Peshawar High Court, Peshwar.
6. The Secretary Khyber Pakhtunkhwa, Public Service Commission.
7. All Addl: Secretaries Establishment & Administration Department.
8. All Deputy Secretaries in Establishment & Administration Department.

*NAJAM*  
 SECTION OFFICER (REG-VI)

AM 201



**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION  
KHYBER PAKHTUNKHWA PESHAWAR.**

Phone: 091-9225344

Email: ddadm.ee@gmail.com

**Order.**

Mr. Sahibzada Ihtishamullah Junior Clerk DEO Female Dir Upper (Under transfer to GGHS Duro Dir Upper vide DEO Female Endst No 2109-12 dated 23/11/2020) hereby transferred/adjusted against vacant post of Senior Clerk at SDEO Female Dir Upper on his own pay and BPS in the interest of public service with effect from the date he is taking over charge.

1. Charge report should be submitted to all concerned.
2. No TA/DA is allowed.
3. The official will not claim any benefit of seniority of Senior clerk.

**DIRECTOR**

Elementary & Secondary Education  
Khyber Pakhtunkhwa, Peshawar

Order No. 99-106 / F.No. / A-23/MS/Transfer Dir Upper

Dated Peshawar the 25/11/2020

Copy forwarded to the: -

District Education Officer (Female) Dir Upper

District Accounts Officer Dir Upper.

SDEO Female Dir Upper.

Principal/HM concerned.

Official concerned.

Master File.

PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa  
Peshawar

Assistant Director (Admin)

Directorate E&S Secondary Education

Khyber Pakhtunkhwa, Peshawar

**ATTACHED**



*J 26*

Office Order

Mr. Sahibzada Intisham Ullah J-Clerk (working against S-Clerk Post) office of the SDEO (F) Dir Upper is hereby transferred adjusted against vacant post of Junior Clerk at DEO (Female) Dir Upper on his own pay and BPS in the interest of public service with effect from the date of his taking over charge.

Note:

1. Charge report should be submitted to all concerned
2. NO TA/DA is allowed

**DIRECTOR**  
 Elementary & Secondary Education  
 Khyber Pakhtunkhwa, Peshawar

Endsl. No. 7475-79 /F. No. 181/A-23/MS/Dir Upper-II Dated Peshawar the 27/12 2020  
 Copy forwarded to the:-

1. District Education Officer (Female) Dir Upper
2. District Account Officer Concerned.
3. SDEO (F) Dir Upper
4. Official concerned.
5. Master File.
6. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.

*[Signature]*  
 Assistant Director (Admin)

Directorate of Elementary & Secy. Education  
 Khyber Pakhtunkhwa, Peshawar

20/1/2021

*[Handwritten Urdu text]*  
 20/1/2021

بعدالت

سروس ٹریڈ سول لیسٹور

مجمعہ الحفی 2 منجانب  
مجمعہ الحق بنام محکمہ تعلیم

مورخہ

مقدمہ

دعویٰ

جرم

### باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی کے لئے کارروائی متعلقہ  
کیلئے **سہیل علی خان امروہی**  
آن مقام کوشاہ مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کمال اختیار ہوگا۔ نیز  
مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کمال اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر خلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زر میں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرفہ یا اپیل کی برآمدگی  
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت  
مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے  
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے  
اور اس کا ساختہ پرداختہ منظور قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ 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 سندر ہے۔

الرقوم

ماہ

Attested  
&  
Accepted  
20

واہ الع  
کے لئے منظور ہے۔

مقام

مقام

**BEFORE THE HONORABLE KHYBER PAKHATUNKHWA SERVICE  
TRIBUNAL PESHAWAR.**

**Service Appeal No: 7433/2022**

Mr. Sami Ul Haq, Computer Operator (BPS-16), Office of the DEO (Male) District  
Dir Upper .....Appellant.

**VERSUS**

Secretary (E&SE) Department, Khyber Pakhtunkhwa & others.....Respondents

**JOINT PARAWISE COMMENTS FOR & ON BEHALF OF RESPONDENTS No: 1-3.**

Respectfully Sheweth :-

The Respondents No.1-3 submit as under: -

**PRELEMENARY OBJECTIONS.**

- 1) That the Appellant is not the "aggrieved" persons with the meaning of Article 212 of the Constitution of the Islamic Republic of Pakistan 1973.
- 2) That the Appellant has got no cause of action /locus standi to file the instant appeal because the Appellant did not come on merit.
- 3) That the Appellant has not come to this Honorable Court/Tribunal with clean hands.
- 4) That the Appellant is estopped by his own conduct.
- 5) That the instant Service appeal suffers from laches, hence not maintainable in the present form.
- 6) That the appellant was transferred as per law and rules after completing the normal tenure of one year in hard areas.

**ON FACTS**

1. Para -1 of the facts pertains to record, needs no comments.

2. Para- 2 of the facts is correct and further stated that the appellant was appointed as key punch operator (KPO) vide office order dated 08-12-2016, and later on after completion of normal tenure , he was transferred on his own pay scale to the office of the DEO (F) Dir Upper.
3. Para-3 of the facts is correct and further stated in brief that , the appellant was initially appointed as Key punch operator (KPO) Vide appoint order dated 08-12-2016, after serving in the office of the DEO(F) Dir Upper , he was transferred to the office of the DEO(M) Dir Upper vide order dated 13-11-2019, a letter was issued from the office of the Respondent No.2 to shuffled /adjust the ministerial staff from the office of the DEO,s/SDEO,s/ to Schools, in compliance to the letter dated 03-07-2020, the ministerial staff was adjusted/shuffled .it is pertinent to mention here that the applicant was also shuffled/adjusted due to the completion the applicant tenure ( which is one year for hard areas) in both the offices of the DEO,s Male/Female Dir Upper, that's why the applicant was adjusted/shuffled to the office of the SDEO(M) Kalkot Dir Upper vide order dated 16-06-2021.and later on was adjusted as Key Punch Operator (KPO) at SDEO( M) Barawal Dir Upper vide order dated 03-09-2021.
4. Para-4 of the facts is incorrect hence denied , and further stated that the tenure of the appellant was completed as normal tenure for transfer in hard area's is one year and due to completion of tenure he was transferred from the office of the DEO (F) Dir Upper to the office of the DEO(M) Dir Upper, however, it was sought that the appellant had served in both the offices , that's why he was again placed at the disposal of the DEO (M) Dir Upper for placement against any vacant post of KPO except in the offices of the DEO,s Male/Female Dir Upper.
5. Para-5 of the facts pertains to record regarding the departmental appeal of the appellant; however, if he had filed the said appeal, then he should wait till the disposal of the departmental appeal or wait up to the period of 90 days.



6. Para-6 of the facts is incorrect, hence denied. The appellant has got no course of action. Therefore, the appeal in hand is liable to be rejected on the following grounds inter alia:-


**ON GROUNDS.**


- A. **Incorrect, hence, denied.** The respondents always follow rules and policies consigned by government and the Appellant has been treated as per law rules and policies. Whereas the appellant had served both the offices for his normal tenure of one year in hard areas. Hence the transfer order dated 03-09-2021 is not issued against the Law, facts, norms of Justice.
- B. **Incorrect, hence, denied.** Para-B of the Grounds pertains to record, to the extent of circular based on Anita Turab case dated 27-02-2013, however the transfer order dated 03-09-2021 is passed as per law, rules and policies.
- C. **Incorrect, hence, denied.** It is stated again that the appellant has served the normal tenure of one year in the both offices of the DEO, s (Male/Female) Dir Upper, that's why he was placed at the disposal of the DEO (M) Dir Upper for further adjustment in any office against any vacant post except in DEO (M/F) office Dir Upper.
- D. **Incorrect, hence, denied.** Detail reply has been submitted in the above Paras.
- E. **Incorrect, hence, denied.** Hence, needs no comments as replied above by the Department.
- F. **Incorrect, hence, denied.** Detail reply has been submitted in the above Para's.
- G. **Incorrect, hence, denied.** Hence denied and further stated that all the legal procedure /mechanism followed by the official respondents in letter and spirits.
- H. **Incorrect & not admitted.** In addition to the facts and grounds stated above it is submitted that the post in questions of KPO vacated will be filled as per law, rules, and policies.
- I. **Incorrect, hence, denied.** Para-I pertains to record as well as not relate to the office of the DEO (M) Dir Upper as Mr. Ihtisham Ullah is the employee of the office of DEO (F) Dir Upper.

J. Legal, However the respondents also seek permission for additional grounds during arguments

Therefore, in view of the above made submissions, it is most humbly requested that this Honorable Tribunal may very graciously be pleased to dismiss the instant Service Appeal in favor of the Respondents in the interest of justice.

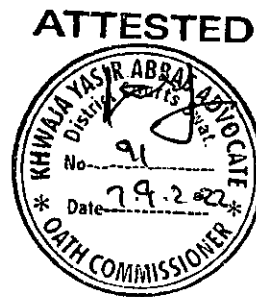
Dated \_\_\_/ \_\_\_/2022

  
**SECRETARY**  
E&SE Department Khyber  
Pakhtunkhwa, Peshawar.  
(Respondent No: 1)

  
**DIRECTOR**  
E&SE Department Khyber  
Pakhtunkhwa, Peshawar.  
(Respondents No: 2 & 3)

**AFFIDAVIT**

**I. Dr. Hayat Khan Assistant Director (Litigation-II)** E&SE Department Khyber Pakhtunkhwa, do hereby solemnly affirm & declare on oath that the contents of the instant Para Wise Comments are true & correct to the best of my knowledge & belief.



  
**Deponent**