

08.07.2021

Nemo for the appellant. Notice be issued to appellant. To come up for preliminary hearing on 30.09.2021 before the S.B.


Chairman

30.09.2021

Nemo for the appellant. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Saleh Mushtaq, ADEO (Lit) for respondents present.

Notices be issued to the appellant and his counsel. To come up for preliminary hearing before the S.B on 29.11.2021.



(MIAN MUHAMMAD)
MEMBER (E)

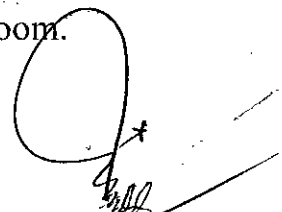
Handwritten notes in Urdu:
1330208024689
03195603603
29/11/2021
میں نے اپنی درخواستیں پیش کر دی ہیں اور ان پر فیصلہ صادر ہوا ہے۔
میں نے اپنی درخواستیں پیش کر دی ہیں اور ان پر فیصلہ صادر ہوا ہے۔

29.11.2021

Appellant in person present. Mr. Kabirullah Khattak, Additional Advocate General alongwith Mr. Saleh Mushtaq, ADEO (Lit) for respondents present.

Appellant requested for withdrawal of the instant service appeal. Appellant submitted before the court that his grievance has been redressed and does not want to proceed further. In this respect his statement also recorded on the margin of the order sheet. Since grievances of the petitioner have been redressed therefore, the instant appeal is hereby dismissed as withdrawn. File be consigned to the record room.

Announced:
29.11.2021



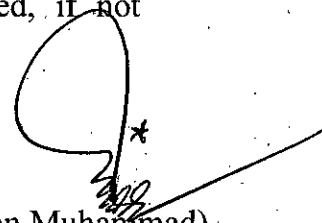
(Mian Muhammad)
Member(E)

08.03.2021

Counsel for the appellant present. Addl: AG alongwith Mr. Muhammad Saleh Mushtaq, ADO for respondents present.

Learned counsel for the appellant seeks adjournment.

Adjourned to 15.03.2021 before S.B. The operation of the impugned corrigendum shall remain suspended, if not already acted upon, till the date fixed.


(Mian Muhammad)
Member (E)

15.03.2021


Due to tour of Camp Court Abbottabad and shortage of Members at Principal Bench Peshawar, the case is adjourned to 01.04.2021 before S.B.


Reader

01.04.2021

Nemo for appellant.

Notice be issued to appellant/counsel for 8/07/2021 for hearing before S.B. The operation of the impugned ~~order~~ corrigendum shall remain suspended, if not already acted upon, till the date fixed.


(Rozina Rehman)
Member (J)

25.01.2021

Appellant Muhammad Rafique is present alongwith his counsel Mr. Rab Nawaz, Advocate.

The learned counsel for the appellant submitted that by virtue of an order endorsed vide its endorsement No. 2946-49/1-3/EB/SDEO/HR dated 29.07.2019 appellant has been transferred from GPS Purwari to GPS Chajjan in compliance of which he submitted his arrival report on 09.08.2019. He referred to a corrigendum bearing no number and dated nil issued by the Sub-Divisional Education Officer (Male) Haripur, whereby the appellant has been posted at GPS Keyian instead. GPS Chajjan yet again by virtue of order bearing no number and dated nil the referred to endorsement/order has been withdrawn by retaining the order in original position, therefore, the learned counsel requested for placing under suspension the corrigendum referred to above by allowing appellant to perform duties at GPS Chajjan Tehsil and District Haripur. Accordingly, the operation of the impugned corrigendum shall remain suspended, if not already acted upon, till the date already fixed.

15.02.2021.

(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

15.02.2021


The learned Member Judicial Mr. Muhammad Jamal Khan is under transfer, therefore, the case is adjourned. To come up for the same before S.B on 08.03.2021.


Reader

22.10.2020

Appellant in person present.


Lawyers are on general strike, therefore case is adjourned to 18.01.2021 for preliminary hearing before S.B at Camp Court, Abbottabad.


(Rozina Rehman)
Member (J)
Camp Court, A/Abad

~~22.10.2020~~
17.11.2020

~~Mr. M. J. Khan, Advocate for appellant~~
~~is present. Pre-admission notice is issued to the respondents of~~
~~18.01.2021. Mr. Rab Nawaz, Advocate, for appellant is present.~~

In view of the arguments addressed at the bar by the learned counsel representing appellant, it is deemed appropriate to issue pre-admission notice to respondents for 18.01.2021, simultaneously, directing them to submit their reply/comments before S.B at Camp Court, Abbottabad.



(MUHAMMAD JAMAL KHAN)
MEMBER
CAMP COURT ABBOTTABAD

18.01.2021

Counsel for appellant present.

Kabir Ullah Khattak learned Additional Advocate General alongwith Muhammad Saleh Mushtaq ADEO (Litigation) for respondents present.

Comments submitted. A request was made for adjournment; granted. To come up for preliminary hearing on 18.03.2021 before S.B.





(Rozina Rehman)
Member (J)

FORM OF ORDER SHEET

Court of _____

Case No. -

667 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	24/01/2020	<p>The appeal of Mr. Muhammad Rafique presented today by Mr. Rab Nawaz Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please. decrease</p> <p style="text-align: right;"> REGISTRAR 24/01/20</p> <p>2-</p> <p>This case is entrusted to touring S. Bench at A.Abad for preliminary hearing to be put up there on <u>20-03-2020</u></p> <p style="text-align: right;"> MEMBER</p> <p>Due to covid ,19 case to come up for the same on _____ at camp court abbottabad.</p> <p style="text-align: right;">Reader</p> <p>Due to summer vacation case to come up for the same on <u>22 / 10 / 20</u> at camp court abbottabad.</p> <p style="text-align: right;"> Reader</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.

Service Appeal No. 667 /2020.

Muhammad Rafique V/S Govt. of KPK through Secretary Education
Civil Secretariat Peshawar & others.

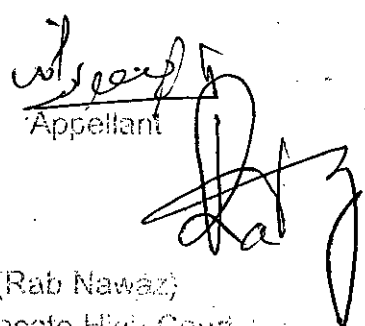
APPEAL

INDEX

Sr. No:	Description of Documents	Annexure	Page No:
(1)	Writ Memorandum of appeal alongwith affidavit, addresses of the apties, list of books and Certificate.	-	1-10
(2)	Copies of Transfer Order alongwith arrival report.	"A&B"	11-14
(3)	Copy of said Corrigendum.	"C"	15
(4)	Copy of Order dated 20-08-2019.	"D"	16-17
(5)	Copy of Departmental Appeal alongwith Corrigendum.	"E&F"	18-22
(6)	Copy letter issued by Registrar Service Tribunal Khyber Pakhtunkhwa, Peshawar.	"G"	23-31
(7)	Copy of Writ Petition and Judgment of the Honourable Peshawar High Court Bench, Abbottabad.	"H&I"	32-41
(8)	Vakalat Nama.	-	42

Dated: 24/01/2020

Through:-


(Rab Nawaz)
Advocate High Court
at Haripur.

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

Service Appeal No. 667/2020.

Muhammad Rafique S/O Muhammad Khan, PSHT, GMS Purwari,
Haripur, R/O Village Chajjian, Tehsil & District Haripur.

Appellant

Kyber Pakhtunkhwa
Service Tribunal

V E R S U S

Diary No. 830

Dated 24/01/2020

- (1) Govt. of K.P.K. through Secretary Education Civil Secretariat Peshawar.
- (2) Director Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- (3) District Education Officer Primary, (Male) Haripur.
- (4) Sub Divisional Education Officer (Male), Haripur.
- (5) Mr. Mehboob Elahi, PSHT, GPS Chajjian, Tehsil & District Haripur.

Respondents.

**APPEAL UNDER SECTION 4 OF K.P.K. SERVICE
TRIBUNAL ACT 1974 READ WITH RULE 19 OF K.P.K.
GOVT. SERVANTS EFFICIENCY & DISCIPLINE ORDER
2001.**

PRAYER:-

On acceptance of instant appeal the original Transfer

Order No. 2946-49-B/1-3/EB/SDEO/HR, dated 29/07/2019

may graciously be maintained by declaring the Corrigendum

dated nil as null and void being illegal and unlawful and the

appellant may kindly be allowed to perform the assigned

duties at GPS Chajjian, Tehsil & District Haripur.

Filed-to-day

Registrar

24/01/20

Respectfully Sheweth:-

The facts of the instant appeal are as under:-

- (1) That the appellant has been serving in the Education Department against the post of PSHT since March 2013 and is currently performing the assigned duties in Govt. Primary School (GPS) Purwari, Haripur.
- (2) That the appellant was previously posted at GPS Purwari, Union Council Bandi Sher Khan whereas the appellant belongs to Union Council Rehana, but even then he had been performing the assigned duties in the said School for the last 7/8 years.
- (3) That the appellant was later on transferred from GPS Purwari to GPS Chajjian vide Order Endst: No. 2946-49-B/1-3/EB/SDEO/HR, dated 29-07-2019 and accordingly the appellant reported for his duty in GPS Chajjian on 10-08-2019. (Copies of Transfer Order alongwith arrival report are annexed as "A&B").
- (4) That soon after few days the appellant received an undated and without Number a Corrigendum issued by Respondent No. 4, through which he has been again posted from GPS Chajjian to GPS Keyan illegally and unlawfully. (Copy of said Corrigendum is annexed as "C").
- (5) That on 20-08-2019 during the summer vacations Respondent No. 3 again issued an order during the ban period of summer vacations for withdrawal of office Corrigendum and directed the appellant to report at GPS Keyan as usual which again shows political involvement and illegality on behalf of Respondent No. 3. (Copy of Order dated 20-08-2019 is annexed as "D").

- (6) That re-adjustment/re-posting of the appellant soon after his posting at GPS Chajjian to GPS Keyan is result of political influence which is an illegal and unlawful act on the part of Respondent No. 4. It is pertinent to mention here that the said Corrigendum bears no date and number which shows connivance of the individual caused by the political influence of the politicians concerned.
- (7) That the appellant belongs to Union Council Rehana and GPS Chajjian is also within the limit of said Union Council, hence in accordance with the prevailing policy and procedure the appellant is eligible to be allowed to perform the assigned duties in GPS Chajjian Haripur instead of GPS Keyan Haripur.
- (8) That Respondent No. 5 has been given undue favour caused by the political influence and the appellant has been deprived and re-adjusted in GPS Keyan through the said impugned Corrigendum, hence the Corrigendum cited above is liable to be cancelled in accordance with the prevailing policy of transfer and posting of the Education Department and the appellant is eligible to be allowed to perform the assigned duties in GPS Chajjian instead of GPS Keyan in the interest of justice.
- (9) That the appellant feeling himself aggrieved visited the S.D.E.O (M) Haripur and made request for the cancellation of said undated and without number Corrigendum but he regretted that he has political pressure, hence the cancellation of the Corrigendum is impossible.
- (10) That the appellant has been performing the assigned duties quite honestly, competently upto the entire satisfaction of his superiors

and he never gave any chance of reprimand, hence the involvement of the politicians in the smooth performance of duties of the Government employee is not justified which is synonymous to create severe disturbance.

(11) That it has come into the knowledge of the appellant that the said Corrigendum was issued on 03-08-2019, whereas the issuance of Corrigendum during the banned period i.e. from 01-08-2019 is illegal and unlawful and consequently the Respondent No. 4 did not mention the Diary Number & date on the said Corrigendum which clearly shows malafide & connivance on his part.

(12) That the appellant also preferred a Departmental Appeal to Respondent No. 2. Although the appellant has not received any reply as yet, however the Respondent No. 4 issued an Order without number and date and cancelled the said impugned Corrigendum, but he retained the original order caused by the political influence. (Copy of Departmental Appeal alongwith Corrigendum are annexed as "E&F").

(13) That the appellant filed Service Appeal before this Honourable Tribunal on 23/08/2019 against the transfer order which was returned on the ground that the 90 days had not lapsed as per Section 4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974 which was premature. (Copy letter issued by Registrar Service Tribunal Khyber Pakhtunkhwa, Peshawar is annexed as "G").

(14) That the appellant thereafter preferred a Writ Petition No. 919/12019 in the Honourable Peshawar High Court, Bench Abbottabad and the

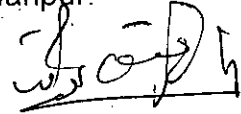
Honourable High Court issued direction to the Respondents to transfer the appellant on merit, but the Respondent did not act upon the directions issued as yet. (Copy of Writ Petition and Judgment of the Honourable Peshawar High Court Bench, Abbottabad are annexed As "H&I").

- (15) That the appellant having no alternate avenue prefers the instant appeal before your Honourable Tribunal inter-alia on the following grounds:-

GROUND S:

- a. That re-posting of the appellant from GPS Chajjian to GPS Keyain is result of political influence and victimization and nepotism, the impugned Corrigendum is liable to be cancelled in the light of Departmental Policy and rules.
- b. That the appellant has not been involved in any unlawful activity and he has neither been charge sheeted nor warned throughout the past service tenure, hence the transfer of the appellant from Union Council concerned to an irrelevant Union Council is not maintainable which is liable to be cancelled & withdrawn being null & void, against the facts and law.
- c. That the transfer of the appellant was made during the banned period which is not maintainable in the eyes of law.
- d. That there are so many other grounds which would be agitated at the time of hearing of the instant appeal.

It is therefore respectfully prayed that on acceptance of instant appeal the original Transfer Order No. 2946-49-B/1-3/EB/SDEO/HR, dated 29/07/2019 may graciously be maintained by declaring the Corrigendum dated nil as null and void being illegal and unlawful and the appellant may kindly be allowed to perform the assigned duties at GPS Chajjian, Tehsil & District Haripur.

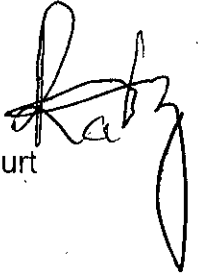


Appellant

Dated: 24/01/2020

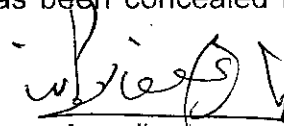
Through:-

(Rab Nawaz)
Advocate High Court
at Haripur.



VERIFICATION

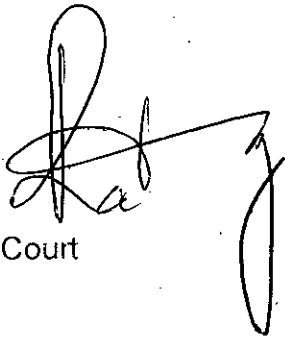
Verified that the contents of this appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.



Appellant

Dated: 22-01-2020

Identified by:



(Rab Nawaz)
Advocate High Court
at Haripur.

07

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

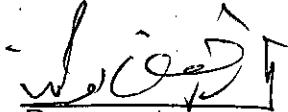
Service Appeal No. 21830 /2020.

Muhammad Rafique V/S Govt. of KPK through Secretary Education
Civil Secretariat Peshawar & others.

APPEAL

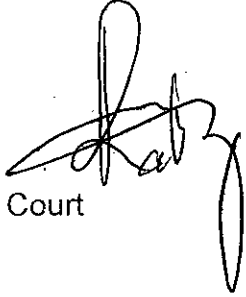
AFFIDAVIT

I, Muhammad Rafique S/O Muhammad Khan, R/O Village Chajjian, Tehsil & District Haripur, do hereby solemnly affirm and declare on oath that the contents of accompanying Service Appeal are true and correct to the best of my knowledge and belief and nothing has been suppressed from this Honourable Tribunal.


Deponent
Muhammad Rafique

Identified by:

(Rab Nawaz)
Advocate High Court
at Haripur.



28

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

Service Appeal No. 542/12020.

Muhammad Rafique V/S Govt. of KPK through Secretary Education
Civil Secretariat Peshawar & others.

APPEAL

ADDRESSES OF THE PARTIES

Appellant:

Muhammad Rafique S/O Muhammad Khan, PSHT, GMS Purwari,
Haripur, R/O Village Chajjian, Tehsil & District Haripur.

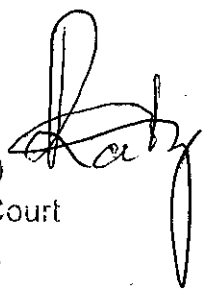
Respondents:

- (1) Govt. of K.P.K. through Secretary Education Civil
Secretariat Peshawar.
- (2) Director Elementary and Secondary Education, Khyber
Pakhtunkhwa, Peshawar.
- (3) District Education Officer Primary, (Male) Haripur.
- (4) Sub Divisional Education Officer (Male), Haripur.
- (5) Mr. Mehboob Elahi, PSHT, GPS Chajjian, Tehsil & District Haripur.

Dated: 24-01-2020


Appellant

Through:-

(Rab Nawaz) 
Advocate High Court
at Haripur.

09

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.

Service Appeal No. 1/2020.

Muhammad Rafique V/S Govt. of KPK through Secretary Education
Civil Secretariat Peshawar & others.

APPEAL
CERTIFICATE

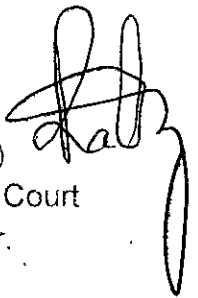
It is certified that the appellant prefers the accompanying appeal
before this Honourable Court and his such like appeal is neither
pending either in this Hon
ourable Tribunal or any other Court/forum.

Dated: 24/01/2020


Appellant

Through:

(Rab Nawaz)
Advocate High Court
at Haripur.



/ 0

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.

Service Appeal No. 20/2020 /2020.

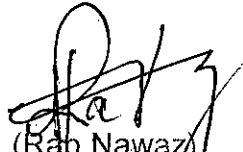
Muhammad Rafique V/S Govt. of KPK through Secretary Education
Civil Secretariat Peshawar & others.

APPEAL

LIST OF BOOKS

- (1) Servant Act 1974.
- (2) K.P.K. Services Rules E&D 2011.
- (3) Other Ruling of High Courts, Superior Courts and Service Tribunal will be cited at the time of hearing.

Dated: 24/01/2020


(Rab Nawaz)
Advocate High Court
at Haripur.

گورنمنٹ سڈیوٹنگ (M) سب ڈویژن لاہور

شاہ علی
ڈائریکٹر انفراسٹرکچر

میں کثرت PSHT کارڈز 2013 سے PSHT کارڈز
سے لے کر 6 سال کے اندر میں
انفراسٹرکچر کے لیے 2 =
لگاؤ میں سے ان کی اس قسم

مجھے پورے دوران کے بنیادی کاموں کے PSHT کارڈز
سے PSHT کارڈز کے فنی سکول میں تبدیل کر کے
ڈیڑھ لاکھ روپے

ان کے
ڈائریکٹر PSHT / PSHT کارڈز
27-12-2018

DFEDM
Benqelmaul Post
PRINCE SEED
Adviser to Government
Highway & Services
Karachi

Arshad Ayub Khan
MPA

Very strongly recommended.

Recommended

Arshad Ayub Khan
District Council Chairman
District Council
13/01/2019

12/1/19
OMAR AYUB KHAN
Minister for Power Division
Ministry of Energy
Government of Pakistan
Islamabad



OFFICE OF THE SUB DIVISIONAL EDUCATION OFFICER (MALE)
HARIPUR

12

H No. 0995-611876
hr704041@gmail.com

A

Order

The following Adjustment of teaching staff is hereby ordered in the needed schools under rationalization Policy framed by E&SE Khyber Pakhtunkhwa in the best interest of Public service with immediate effect.

S.No	Name /Designation	Present School	Name of School where posted	Remarks
01	Muhammad Rafique PSHT	GPS Purwari	GPS Chajjian	Vice S.No-2 ✓
02	Mehboob Elahi PSHT	GPS Chajjian	GPS Keyian	Vice S.No-3
03	Maqbool Ur Rehman PSHT	GPS Keyian	GPS No-3 Haripur	Against Vacant Post

Note:-

1. No TA/DA or TG is allowed.

-----sd/-----

Sub Divisional Education Officer (M)
Haripur

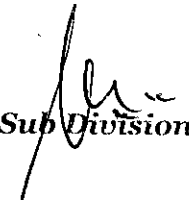
-B-

Endst: No. 2946-49 /1-3/EB/SDEO/ HR

Dated: 29 / 07 /2019

CC:

1. The Director E& SE KP Peshawar.
2. The Deputy Commissioner Haripur.
3. The DMO IMU Haripur.
4. The ASDEC (Circles) concerned.
5. Officials concerned.
6. Office record file.

 29/7/19
Sub Divisional Education Officer (M)
Haripur

Order 2946-4
20/7/2019

ریٹائرمنٹ

29/7/18 مطہری آفس آرڈر B 49B-2946 نوٹ

اڈوکیٹڈ SDEO صاحبہ کی طرف سے جس میں PS HT کا نام
PS پرواروں سے PS حصوں پر ایک کاپی فراہم کرنا ہے
اگست 2018 کو لیا گیا ہے جس میں PS حصوں
میں فراہم کریں

مطہری

PS.T/GPS Parwari

09-8-2018

(Signature)

Head Teacher
Govt Primary School
Parwari

اندر کول و اطلاع (طابقاً) رپورٹ

سی سے تدریس PSHT کے طور پر اس کے ساتھ 2012ء کے مطابق
دو سالہ GPS کے تحت ن سے اس کے مطابق اس کے مطابق
نمبر B-48-2946 کے طور پر 29/7/19، اس کے ساتھ SD 20

المن
تدریس / PSHT / GPS کے تحت

گواہ

M Zameer

تدریس / PST / GPS کے تحت

OFFICE OF THE SUB DIVISIONAL EDUCATION OFFICER (MALE)
HARIPUR

Ph No. 0995-611876
hr704041@gmail.com

CORRIGENDUM.

Please read GPS Keyian instead of GPS Chajjian against the name of Mr. Muhammad Rafique at S.No-01 vide office order No. 346/9-B dated: 29/07/2019.

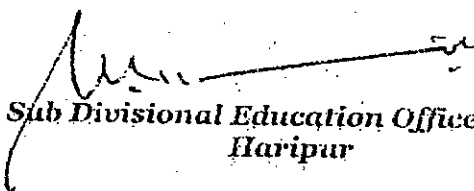
Note: S.No-02, Mr. Mehboob Elahi PSHT is hereby directed to work at GPS Chajjian as usual.

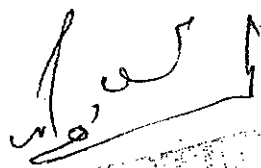
-----sd/-----
Sub Divisional Education Officer (M)
Haripur

Enclst: No. Even No. & Date

CC:

1. The Senior District Accounts Officer Haripur.
2. The District Education Officer (Male) Haripur.
3. The ASDEO (Circles) concerned.
4. Official concerned.
5. Office record file.


Sub Divisional Education Officer (M)
Haripur


RECEIVED

OFFICE OF THE SUB DIVISIONAL EDUCATION OFFICER (MALE)
HARIPUR

Ph No. 0995-611876
hr704041@gmail.com

ORDER.

This office corrigendum Order issued with even No. and date in c/w this office order Endst No. 2946-49-B/1-3/EB/SDEO/ HR dated 29/07/2019, is hereby withdrawn and retained the said order in original position in the best interest of public service.

-----sd/-----

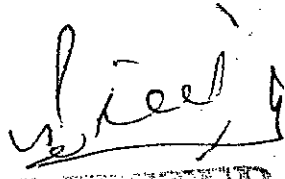
Sub Divisional Education Officer (M)
Haripur

Endst: No. With even No& date

CC:

1. The Senior District Accounts Officer Haripur.
2. The District Education Officer (Male) Haripur.
3. The ASDEO (Circles) concerned.
4. Officials concerned.
5. Office record file.


Sub Divisional Education Officer (M)
Haripur


ATTESTED

OFFICE OF THE SUB DIVISIONAL EDUCATION OFFICER (MALE)

HARIPUR

PH No. 0995-611876

hr7040@gmail.com

17

WITHDRAWAL.

The office corrigendum order in R/o Mr. Muhammad Rafique PSHT from GPS Keyian to GPS Chajjian is issued vide this office with even No and date is hereby withdrawn with immediate effect and Mr. Muhammad Rafique is directed to report at GPS Keyian as usual.

D

Note:-

Mr. Mehboob Elahi PSHT is directed to continue work at GPS Chajjian as usual. No TA/DA or TG is allowed.

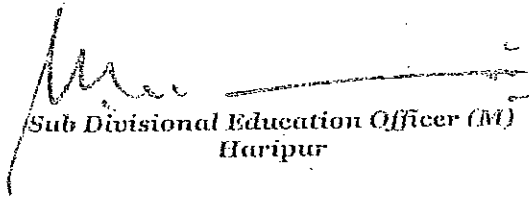
Sub Divisional Education Officer (M)
Haripur

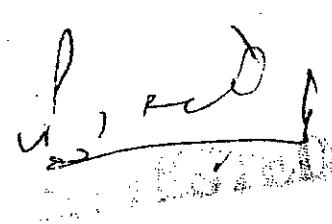
Encls: No. 3019 /

Dated: 20 / 08 / 2019

CC:

1. The Senior District Accounts Officer Haripur.
2. The District Education Officer (Male) Haripur.
3. The ASD&O (Circles) concerned.
4. Official concerned.
5. Office record file.


Sub Divisional Education Officer (M)
Haripur



The Director,
Elementary & Secondary Education,
Khyber Pakhtunkhwa, PESHAWAR.

B

SUB: DEPARTMENTAL APPEAL FOR THE CANCELLATION OF
UNDATED AND WITHOUT NO. CORRIGENDUM ISSUED
BY SUB DIVISIONAL EDUCATION OFFICER (M) HARIPUR
BY MAINTAINING THE POSTING ORDER ENDST: NO.
2946-49-B/1-3/EB/SDEP/HR, DATED 29/07/2017.

Respected Sir,

With great reverence and humble submission the appellant would like to state as under:-

- (1) That the appellant has been serving in the Education Department as PSHT (BPS-15) since March 2013.
- (2) That the appellant was previously posted at GPS Purwari, Union Council Bandi Sher Khan where he belongs to Union Council Rehana, but even then he had been performing the assigned duties in the said School for more than 7/8 years.
- (3) That later on the appellant was transferred from GPS Purwari to GPS Chajjan vide Order Endst: No. 2946-49-B/1-3/EB/SDEO/HR, dated 29-07-2019 (Copy of Transfer Order is annexed herewith).
- (4) That the appellant now received an undated and without Number Corrigendum issued by Sub Divisional Education Officer (M) Haripur through which he has been against posted

at GPS Keyan instead of GPS Chajjian. (Copy of said Corrigendum is annexed herewith).

- (5) That re-adjustment/re-posting of the appellant soon after his posting at GPS Chajjian to GPS Keyan is result of political influence which is an illegal and unlawful act on the part of Sub Divisional Education Officer (M) Haripur. It is pertinent to mention here that the said Corrigendum bears no date and number which shows connivance of the individual caused by the political influence of the politicians concerned.
- (6) That the appellant belongs to Union Council Rehana and GPS Chajjian is also within the limit of said Union Council, hence in accordance with the prevailing policy and procedure the appellant is eligible to be allowed to perform the assigned duties in GPS Chajjian Haripur instead of GPS Keyan Haripur.
- (7) That the reliever namely Mr. Mehboob Elahi PSHT has been given undue favour caused by the political influence and the appellant has been deprived and re-adjusted in GPS Keyan through the said impugned Corrigendum, hence the Corrigendum cited above is liable to be cancelled and the appellant is eligible to be allowed to perform the assigned duties in GPS Chajjian instead of GPS Keyan in the interest of justice.
- (8) That the appellant feeling himself aggrieved visited the S.D.E.O (M) Haripur and made request for the cancellation of said undated and without number Corrigendum but he

regretted that he has political pressure, hence the cancellation of the Corrigendum is impossible.

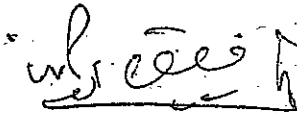
- (9) That the appellant has been performing the assigned duties quite honestly, competently upto the entire satisfaction of his superiors and he never gave any chance of reprimand, hence the involvement of the politicians in the smooth performance of duties of the Government employee is not justified which is synonymous to create severe disturbance.
- (10) That it has come into the knowledge of the appellant that the said Corrigendum was issued on 03-08-2019, whereas the issuance of Corrigendum during the banned period i.e. from 01-08-2019 is illegal and unlawful and consequently the SDEO (M) Haripur did not mention the Diary Number & date on the said Corrigendum which clearly shows malafide on his part.
- (11) That the appellant having no alternate avenue prefers the instant Departmental Appeal before your honour for the redressal of his grievance.

Keeping in view the facts explained above the appellant implores your kind magnanimity to kindly allow the appellant to perform his duties in GPS Chajjian Haripur and the impugned Corrigendum issued soon after posting order from GPS Purwari to Chajjian may please be maintained in the interest of justice.

The appellant hope that your goodself will entertain the instant appeal on top priority basis, enabling the appellant to resume the duty and take over the charge in GPS Chajjian Haripur to avoid an irreparable educational loss of the students of the said School.

Dated: 06-08-2019.

Appellant



(Muhammad Rafique)

PSHT (BPS-15)

GMS Purwari , Haripur.

R/O Village Chajjian,

Union Council Rehana,

Tehsil & District Haripur.

Contact No. 0314-5003003

Registered

Date: 29/07/2019

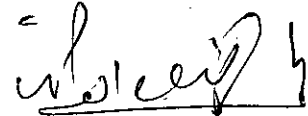
To:

- (1) Govt. of K.P.K. through Secretary Education Civil Secretariat Peshawar.
- (2) Director Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- (3) District Education Officer Primary, (Male) Haripur.
- (4) Sub Divisional Education Officer (Male), Haripur.
- (5) Mr. Mehboob Elahi, PSHT, GPS Chajjian, Tehsil & District Haripur.

SUB: NOTICE OF FILING OF WRIT PETITION.

Dear Sir(s),

Take notice that, I am going to file a Writ Petition in person in the Honourable Peshawar High Court Abbottabad Bench against the impugned Corrigendum Endst: No. 3019, dated 20-08-2019 and maintainability of the original posting order vide No. 2946-49-B/1-3/EB/SDEO/HR, dated 29-07-2019.



(Muhammad Rafique)
S/O Muhammad Khan, PSHT,
GMS Purwari, Haripur,
R/O Village Chajjian, Tehsil
& District Haripur.

g 23

This is an appeal filed by Mr. Muhammad Rafique today on 23/08/2019 against the transfer order dated nil against which he preferred/made departmental appeal/ representation on 06.08.2019 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, which is premature as laid down in an authority reported as 2005-SCMR-890.

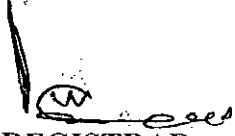
As such the instant appeal is returned in original to the appellant/Counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action and also removing the following deficiencies.

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Annexures of the appeal may be attested.
- 3- Annexures of the appeal may be flagged.
- 4- Annexures of the appeal are not in sequence which may be annexed serial wise as mentioned in the memo of appeal.
- 5- Three copies/sets of the appeal along annexures i.e. complete in all respect for Tribunal and one for each respondent may also be submitted with the appeal.

No. 1459/ST,

Dt. 23-8-2019

Mr. Rabnwas Adv. Haripur


REGISTRAR -
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

24

1.

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

Service Appeal No 23/8 /2019.

Muhammad Rafique S/O Muhammad Khan, PSHT, GMS Purwari,
Haripur, R/O Village Chajjian, Tehsil & District Haripur.

Appellant

**Khyber Pakhtunkhwa
Service Tribunal**

V E R S U S

(1) Govt. of K.P.K. through Secretary Education Civil
Secretariat Peshawar.

Diary No. 1188

Dated 23/8/2019

(2) Director Elementary and Secondary Education, Khyber
Pakhtunkhwa, Peshawar.

(3) District Education Officer Primary, (Male) Haripur.

(4) Sub Divisional Education Officer (Male), Haripur.

(5) Mr. Mehboob Elahi, PSHT, GPS Chajjian, Tehsil & District Haripur.

Respondents.

APPEAL UNDER SECTION 4 OF K.P.K. SERVICE

TRIBUNAL ACT 1974 READ WITH RULE 19 OF K.P.K.

GOVT. SERVANTS EFFICIENCY & DISCIPLINE ORDER

2001; AGAINST THE IMPUGNED TRANSFER ORDER NO.

PRAYER:-

On acceptance of instant appeal the original Transfer
Order No. 2946-49-B/1-3/EB/SDEO/HR, dated 29/07/2019
may graciously be maintained by declaring the Corrigendum
dated nil as null and void being illegal and unlawful and the

Filed to-day
Registrar
23/8/19

appellant may kindly be allowed to perform the assigned duties at GPS Chajjian, Tehsil & District Haripur.

Respectfully Sheweth:-

The facts of the instant appeal are as under:-

- (1) That the appellant has been serving in the Education Department against the post of PSHT since March 2013 and is currently performing the assigned duties in Govt: Primary School (GPS) Purwari, Haripur.
- (2) That the appellant was previously posted at GPS Purwari, Union Council Bandi Sher Khan whereas the appellant belongs to Union Council Rehana, but even then he had been performing the assigned duties in the said School for the last 7/8 years.
- (3) That the appellant was later on transferred from GPS Purwari to GPS Chajjian vide Order Endst: No. 2946-49-B/1-3/EB/SDEO/HR, dated 29-07-2019(Copy of Transfer Order is annexed as "A").
- (4) That soon after few days the appellant received an undated and without Number a Corrigendum issued by Respondent No. 4, through which he has been again posted from GPS Chajjian to GPS Keyan illegally and unlawfully. (Copy of said Corrigendum is annexed as "B").
- (5) That re-adjustment/re-posting of the appellant soon after his posting at GPS Chajjian to GPS Keyan is result of political influence which is an illegal and unlawful act on the part of Respondent No. 4. It is pertinent to mention here that the said Corrigendum bears no date

and number which shows connivance of the individual caused by the political influence of the politicians concerned.

- (6) That the appellant belongs to Union Council Rehana and GPS Chajjian is also within the limit of said Union Council, hence in accordance with the prevailing policy and procedure the appellant is eligible to be allowed to perform the assigned duties in GPS Chajjian Haripur instead of GPS Keyian Haripur.
- (7) That Respondent No. 5 has been given undue favour caused by the political influence and the appellant has been deprived and re-adjusted in GPS Keyian through the said impugned Corrigendum, hence the Corrigendum cited above is liable to be cancelled in accordance with the prevailing policy of transfer and posting of the Education Department and the appellant is eligible to be allowed to perform the assigned duties in GPS Chajjian instead of GPS Keyian in the interest of justice.
- (8) That the appellant feeling himself aggrieved visited the S.D.E.O (M) Haripur and made request for the cancellation of said undated and without number Corrigendum but he regretted that he has political pressure, hence the cancellation of the Corrigendum is impossible.
- (9) That the appellant has been performing the assigned duties quite honestly, competently upto the entire satisfaction of his superiors and he never gave any chance of reprimand, hence the involvement of the politicians in the smooth performance of duties of the Government employee is not justified which is synonymous to create severe disturbance.

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- 4
- (10) That it has come into the knowledge of the appellant that the said Corrigendum was issued on 03-08-2019, whereas the issuance of Corrigendum during the banned period i.e. from 01-08-2019 is illegal and unlawful and consequently the Respondent No. 4 did not mention the Diary Number & date on the said Corrigendum which clearly shows malafide & connivance on his part.
- (11) That the appellant also preferred a Departmental Appeal to Respondent No. 2. Although the appellant has not received any reply as yet, however the Respondent No. 4 issued an Order without number and date and cancelled the said impugned Corrigendum, but he retained the original order caused by the political influence. (Copy of said Order is annexed as "C").
- (12) That the appellant having no alternate avenue prefers the instant Departmental Appeal before your honour for the redressal of his grievance.

GROUND S:

- a. That re-posting of the appellant from GPS Chajjian to GPS Keyain is result of political influence and victimization and nepotism, the impugned Corrigendum is liable to be cancelled in the light of Departmental Policy and rules.
- b. That the appellant has not been involved in any unlawful activity and he has neither been charge sheeted nor warned throughout the past service tenure, hence the transfer of the appellant from Union Council concerned to an irrelevant Union Council is not maintainable which is liable to be

cancelled & withdrawn being null & void, against the facts and law.

- c. That the transfer of the appellant was made during the banned period which is not maintainable in the eyes of law.
- d. That there are so many other grounds which would be agitated at the time of hearing of the instant appeal.

It is therefore, respectfully prayed that on acceptance of instant appeal the original Transfer Order No. 2946-49-B/1-3/EB/SDEO/HR, dated 29/07/2019 may graciously be maintained by declaring the Corrigendum dated nil as null and void being illegal and unlawful and the appellant may kindly be allowed to perform the assigned duties at GPS Chajjian, Tehsil & District Haripur.

Dated: 20/08/2019


Appellant

Through:-

(Rab Nawaz)
Advocate High Court
at Haripur.



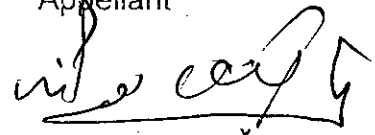
VERIFICATION

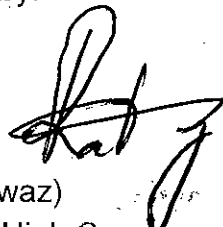
Verified that the contents of this appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

Dated: 20/08/2019

Appellant

Identified by:




(Rab Nawaz)
Advocate High Court
at Haripur.

29



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

Service Appeal No. 20/08 /2019.

Muhammad Rafique V/S Govt. of KPK through Secretary Education
Civil Secretariat Peshawar & others.

APPEAL

ADDRESSES OF THE PARTIES

Appellant:

Muhammad Rafique S/O Muhammad Khan, PSHT, GMS Purwari,
Haripur, R/O Village Chajjian, Tehsil & District Haripur.

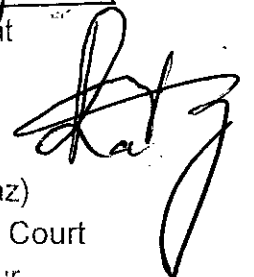
Respondents:

- (1) Govt. of K.P.K. through Secretary Education Civil
Secretariat Peshawar.
- (2) Director Elementary and Secondary Education, Khyber
Pakhtunkhwa, Peshawar.
- (3) District Education Officer Primary, (Male) Haripur.
- (4) Sub Divisional Education Officer (Male), Haripur.
- (5) Mr. Mehboob Elahi, PSHT, GPS Chajjian, Tehsil & District Haripur.

Dated: 20/08/2019


Appellant

Through:-


(Rab Nawaz)
Advocate High Court
at Haripur.

30

(7)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.

Service Appeal No. 20/08 /2019.

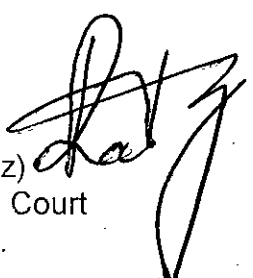
Muhammad Rafique V/S Govt. of KPK through Secretary Education
Civil Secretariat Peshawar & others.

APPEAL

LIST OF BOOKS

- (1) Servant Act 1974.
- (2) K.P.K. Services Rules E&D 2011.
- (3) Other Ruling of High Courts, Superior Courts and Service Tribunal will be cited at the time of hearing.

Dated: 20/08/2019


(Rab Nawaz)
Advocate High Court
at Haripur.

31


BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR.

Service Appeal No. 20-08 /2019.

Muhammad Rafique V/S Govt. of KPK through Secretary Education
Civil Secretariat Peshawar & others.

APPEAL

CERTIFICATE

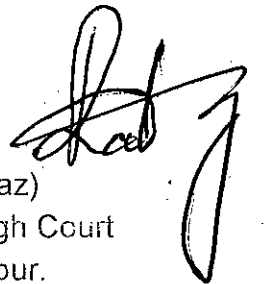
It is certified that the appellant prefers the accompanying appeal before this Honourable Court and he did not file any appeal in this Honourable Court and is also not pending in another court and it is the first appeal in this Honourable court.

Dated: 20-08-2019



Appellant

Through:

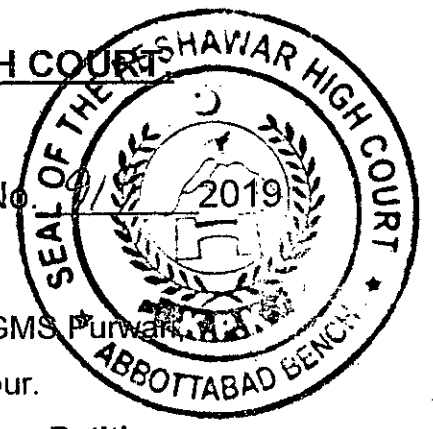


(Rab Nawaz)
Advocate High Court
at Haripur.

IN THE HONOURABLE PESHAWAR HIGH COURT

PESHAWAR.

Writ Petition No.



Muhammad Rafique S/O Muhammad Khan, PSHT, GMS Purwan,
Haripur, R/O Village Chajjian, Tehsil & District Haripur.

Petitioner

VERSUS

- (1) Govt. of K.P.K. through Secretary Education Civil Secretariat Peshawar.
- (2) Director Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- (3) District Education Officer Primary, (Male) Haripur.
- (4) Sub Divisional Education Officer (Male), Haripur.
- (5) Mr. Mehboob Elahi, PSHT, GPS Chajjian, Tehsil & District Haripur.

Respondents.

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION

OF ISLAMIC REPUBLIC OF PAKISTAN 1973.

Certified to be True Copy
EXAMINER
30 SEP 2019
Peshawar High Court Ad. Bench
Authorized Under Sec: 75 Evid Ordns:

PRAYER:-

On acceptance of instant Writ Petition the original Transfer Order No. 2946-49-B/1-3/EB/SDEO/HR, dated 29/07/2019 may graciously be maintained by declaring the Corrigendum dated nil as null and void being illegal and unlawful and the petitioner may kindly be allowed to perform the assigned duties at GPS Chajjian, Tehsil & District Haripur.

Respectfully Sheweth:-

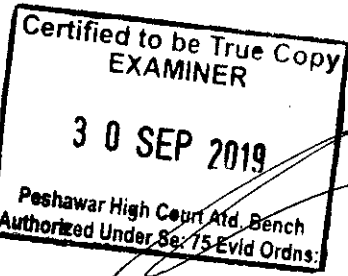
only

The facts of the instant Writ Petition are as under:-

- (1) That the petitioner has been serving in the Education Department against the post of PSHT since March 2013 and is currently performing the assigned duties in Govt:

Primary School (GPS) Purwari, Haripur.

- (2) That the petitioner was previously posted at GPS Purwari, Union Council Bandi Sher Khan whereas he belongs to Union Council Rehana, but even then he had been performing the assigned duties in the said School for the last 7/8 years.
- (3) That the petitioner was later on transferred from GPS Purwari to GPS Chajjian vide Order Endst: No. 2946-49-B/1-3/EB/SDEO/HR, dated 29-07-2019 and accordingly he reported for his duty in GPS Chajjian on 10-08-2019. (Copies of Transfer Order alongwith arrival report are annexed as "A&B").
- (4) That soon after few days the petitioner received an undated and without Number Corrigendum issued by Respondent No. 4, through which he has been again posted from GPS Chajjian to GPS Keyan illegally and unlawfully. (Copy of said Corrigendum is annexed as "C").
- (5) That on 20-08-2019 during the summer vacations Respondent No. 3 again issued an order during the ban period of summer vacations for withdrawal of office Corrigendum and directed the appellant to report at GPS Keyan as usual which again shows political involvement and illegality on behalf of Respondent No. 3. (Copy of Order dated 20-08-2019 is annexed as "D").
- (6) That re-adjustment/re-posting of the appellant soon after his posting at GPS Chajjian to GPS Keyan is result of political influence which is an illegal and unlawful act on the part of Respondent No. 4. It is pertinent to mention here that the said Corrigendum bears no date and number which shows connivance of the individual caused by the political influence of the politicians concerned.
- (7) That the appellant belongs to Union Council Rehana and GPS Chajjian is also within the limit of said Union Council, hence in accordance with the prevailing policy and procedure the appellant is



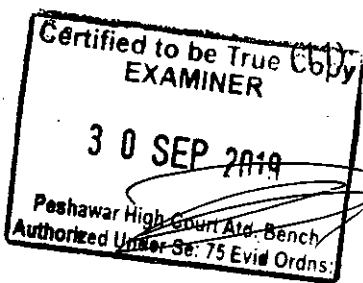
24/9

eligible to be allowed to perform the assigned duties in GPS Chajjian Haripur instead of GPS Keyian Haripur.

- (8) That Respondent No. 5 has been given undue favour caused by the political influence and the petitioner has been deprived and re-adjusted in GPS Keyian through the said impugned Corrigendum, hence the Corrigendum cited above is liable to be cancelled in accordance with the prevailing policy of transfer and posting of the Education Department and the petitioner is eligible to be allowed to perform the assigned duties in GPS Chajjian instead of GPS Keyian in the interest of justice.
- (9) That the petitioner feeling himself aggrieved visited the S.D.E.O (M) Haripur and made request for the cancellation of said undated and without number Corrigendum but he regretted that he has political pressure, hence the cancellation of the Corrigendum is impossible.
- (10) That the petitioner has been performing the assigned duties quite honestly, competently upto the entire satisfaction of his superiors and he never gave any chance of reprimand, hence the involvement of the politicians in the smooth performance of duties of the Government employee is not justified which is synonymous to create severe disturbance.

That it has come into the knowledge of the petitioner that the said Corrigendum was issued on 03-08-2019, whereas the issuance of Corrigendum during the banned period i.e. from 01-08-2019 is illegal and unlawful and consequently the Respondent No. 4 did not mention the Diary Number & date on the said Corrigendum which clearly shows malafide & connivance on his part.

- (12) That the petitioner also preferred a Departmental Appeal to Respondent No. 2 and during the intervening period the Respondent No. 4 issued an Order without number and date and cancelled the said impugned Corrigendum, but he retained the original order



24/9

caused by the political influence. (Copy of said Order is annexed as "C").

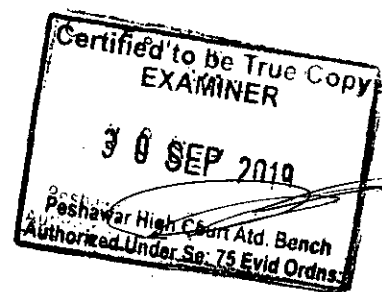
- (13) That the appellant having no alternate avenue prefers the instant Writ Petition before your honour Court inter-alia on the following Grounds:-

GRUNDS:

- a. That re-posting of the petitioner from GPS Chajjian to GPS Keyain is result of political influence and victimization and nepotism, the impugned Corrigendum is liable to be cancelled in the light of Departmental Policy and rules.
- b. That the petitioner has not been involved in any unlawful activity and he has neither been charge sheeted nor warned throughout the past service tenure, hence the transfer of the petitioner from Union Council concerned to an irrelevant Union Council is not maintainable which is liable to be cancelled & withdrawn being null & void, against the facts and law.
- c. That the transfer of the petitioner was made during the ban period which is not maintainable in the eyes of law.
- d. That due to some financial hindrance the petitioner is unable to engage a counsel and he is filing the instant Writ Petition in person.

It is therefore, respectfully prayed that on acceptance of instant Writ Petition the original Transfer Order No. 2946-49-B/1-3/EB/SDEO/HR, dated 29/07/2019 may graciously be maintained by declaring the Corrigendum dated nil as null and void being illegal and unlawful and the appellant may kindly be allowed to perform the assigned duties at GPS Chajjian, Tehsil & District Haripur.

Any other relief which this Honourable Court may deems fit and proper in the peculiar circumstances of the case, may also graciously be awarded.



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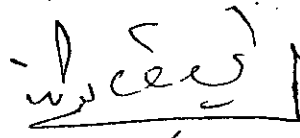
Interim Relief:

In view of above ad interim relief, the Corrigendum bearing no date and number may please be suspended and the original Transfer Order No. 2946-49-B/1-3/EB/SDEO/HR, dated 29/07/2019 may please be maintained till the final disposal of the main Writ Petition.

Dated: 29-8-2019

Petitioner

Through:-



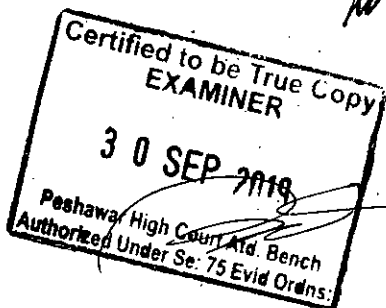
(Muhammad Rafiq)
in person

VERIFICATION

Verified that the contents of this appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

Dated: 29-8-2019

Petitioner



6

37

IN THE HONOURABLE PESHAWAR HIGH COURT,

PESHAWAR.

Writ Petition No. 919 2019

Muhammad Rafique V/S Govt. of KPK through Secretary Education
Civil Secretariat Peshawar & others.

WRIT PETITION

AFFIDAVIT

I, Muhammad Rafique S/O Muhammad Khan, PSHT, GMS Purwari, Haripur,
R/O Village Chajjian, Tehsil & District Haripur, do hereby solemnly affirm and
declare on oath that the contents of accompanying Writ Petition are true and
correct to the best of my knowledge and belief and nothing has been
suppressed from this Honourable Court.

Dated: 29/8/2019

[Handwritten Signature]

Deponent
Muhammad Rafique

NIC: 13302: 05024688-9

No 0314-5003003:

Certified to be True Copy
EXAMINER
30 SEP 2019
Peshawar High Court Atd. Bench
Authorized Under Sec: 75 Evid Ordns.

24/9

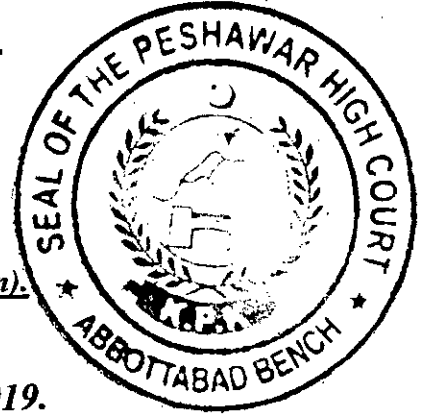
6471
I do hereby solemnly
swear that the contents of
this affidavit are true and
correct to the best of my
knowledge and belief and
nothing has been suppressed
from this Honourable Court.
Ave 19
Muhammad Rafique
Haripur
29/8/2019

PESHAWAR HIGH COURT ABBOTTABAD
BENCH

JUDICIAL DEPARTMENT

JUDGMENT SHEET

WP No. 919-A/2019 (Motion).



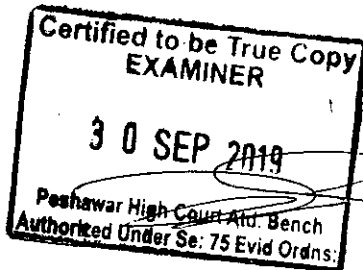
Date of hearing 25.09.2019.

Petitioner/s (Muhammad Rafique) in person.

IJAZ ANWAR. J. Through the instant petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner namely ***Muhammad Rafique***, has invoked the jurisdiction of this Court with the following prayer:-

“On acceptance of instant writ petition the original Transfer Order No. 2946-49-B-1-3/EB/SDEO/HR dated: 29.07.2019 may graciously be maintained by declaring the corrigendum dated nil as null and void being illegal and unlawful and the petitioner may kindly be allowed to perform the assigned duties at GPS Chajjian, Tehsil & District, Haripur.”

2. Precisely, the petitioner through the instant writ petition has questioned his transfer & posting requesting for maintaining



his previous transfer & posting order dated:
29.07.2019.

3. Perusal of the record reveals that the question agitated by the petitioner in the present petition under Article 199 of the Constitution of Islamic Republic of Pakistan directly relates to the terms and conditions of his service, which is not amenable to the writ jurisdiction of this Court under Article 199 of the Constitution in view of the bar contained in Article 212 of the Constitution of 1973. During the course of arguments, petitioner stated that he has already filed departmental appeal, which is still pending before the respondent No.2.

4. Therefore, in the peculiar facts and circumstances of the present writ petition, we dispose of this writ petition with directions to the respondent No. 2 to pass an appropriate order on the appeal of the petitioner, strictly in accordance with law and within statutory period, in case it is not replied or he is not satisfied with the decision of appellate authority, he may thereafter approach the

Certified to be True Copy
EXAMINER
30 SEP 2019
Peshawar High Court Adl. Bench
Authorized Under Sec. 75 Evid Ordns.

competent forum for redressal of his grievance, in accordance with law.

Announced.

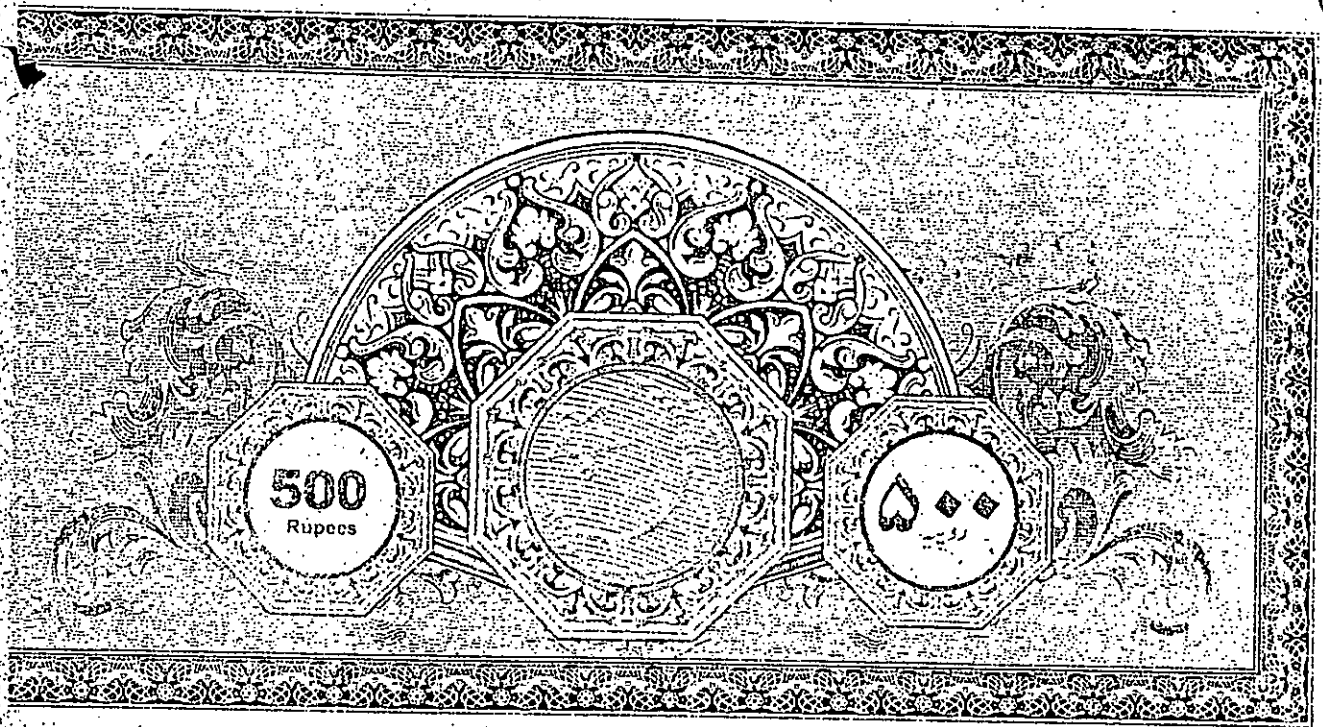
25.09.2019.

Tahir PS

Handwritten signature

*Hon'ble Justice Ijaz Anwar &
Hon'ble Justice Shakeel Ahmad.*

Certified to be True Copy
EXAMINER
30 SEP 2019
Peshawar High Court Atd. Bench
Authorized Under Se: 75 Evid Ordns



PAKISTAN COURT FEE

سروس اپیل
 پشاور ہائی کورٹ پشاور

08
29/10

مفتوح

مفتوح



0

GST No. 11-0000000-002-73



CN: 5066367599

Product Code: 6 Service Type: 0

Payment Mode: CASH Date-Time: 2019-08-06 15:33

ORG-DES: HRI-PEW Piece(s): 1 WEIGHT: 0.5
Staff: 6676 Route: X26114

Shipper Details
Name : M RFAÏTQUE
Phone : 03145003003
Address : HARIPUR KPK ...

Consignee Details
Name : THE DIRECTOR
Phone : 03009999999
Address : ELEMENTARY & SECONDARY EDUCATION PE
SHAWAR KPK

Insured Value
Rs. 0

Payment Details	
Service CHG	172.0
Other Amount	0.0
VAS	0
Insurance CHG	0
GST	28
TOTAL	200.0

Remarks

Instructions

Customer Signature

For Terms & Conditions Visit
www.tcscouriers.com/tnc
TCS Headquarters, 101-104, Civil Aviation
Club Road Karachi - 75202, Pakistan
UAN : 111 123456 Web : tcs.com.pk
(Shipper Copy) V-1.43

From

Mohammad Rafiq



GPS Passwari

Haripur

Handwritten Urdu notes: "میرا نام محمد رفیق ہے" (My name is Muhammad Rafiq)

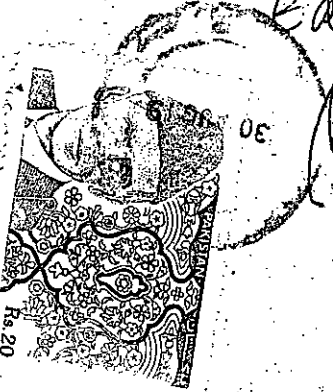
Handwritten Urdu notes: "میرا پتہ ہے" (My address is...)

Handwritten date: 16/7/19



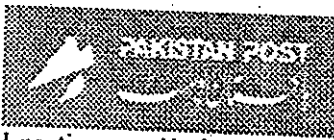
HARIPUR G.P.O.

~~Director Elementary and Secondary Education
Khyber Pakhtunkhwa
Peshawar~~



Handwritten Urdu notes: "19/7/19"





Location: Haripur GPO
Date&Time 30/8/2019 10:20
Article ID: RGL37656972
Recipient: GOVT KO KP THROUGH SEC
EDU CIVIL SEC
Peshawar

Contact No:
Sender: M RAFIQ
HRP
Haripur

Contact No:
Weight: 60gm

Tariff: 80Rs
TOTAL: 80Rs
DEO: akhtar

Inquiry No: 111-111-117/051-8487080/8840360
For Tracking: www.cp.gov.pk
Please make photo copy of the receipt to keep it as evidence.



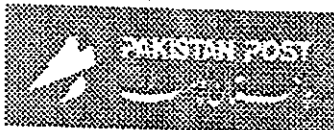
Location: Haripur GPO
Date&Time 30/8/2019 10:22
Article ID: RGL37656971
Recipient: DIR ELE AND SEC EDU KPP
PE
Peshawar

Contact No:
Sender: MUHAMMAD RAFIQ
HRP
Haripur

Contact No:
Weight: 60gm

Tariff: 80Rs
TOTAL: 80Rs
DEO: akhtar

Inquiry No: 111-111-117/051-8487080/8840360
For Tracking: www.cp.gov.pk
Please make photo copy of the receipt to keep it as evidence.



Location: Haripur GPO
Date&Time 30/8/2019 10:20
Article ID: RGL37656975
Recipient: DEO PRIMARY M
HAR
Haripur

Contact No:
Sender: MUHAMMAD RAFIQ
HRP
Haripur

Contact No:
Weight: 60gm

Tariff: 80Rs
TOTAL: 80Rs
DEO: akhtar

Inquiry No: 111-111-117/051-8487080/8840360
For Tracking: www.cp.gov.pk
Please make photo copy of the receipt to keep it as evidence.



Location: Haripur GPO
Date & Time: 30/8/2019 10:21
Article ID: RGL37656974
Recipient: SDEO
M
Haripur

Contact No:
Sender: MUHAMMAD RAFIQ
HRP
Haripur

Contact No:
Weight: 60gm

Tariff: 80Rs
TOTAL: 80Rs
DEO: akhtar

Inquiry No: 111-111-117/051-8487080/8840360

For Tracking: www.cp.gov.pk

Please make photo copy of the receipt to keep it as evidence.



Location: Haripur GPO
Date & Time: 30/8/2019 10:21
Article ID: RGL37656973
Recipient: MEHBOOB ELAHI
GPS CHHAJJIAN
Haripur

Contact No:
Sender: MUHAMMAD RAFIQUE
HRP
Haripur

Contact No:
Weight: 60gm

Tariff: 80Rs
TOTAL: 80Rs
DEO: akhtar

Inquiry No: 111-111-117/051-8487080/8840360

For Tracking: www.cp.gov.pk

Please make photo copy of the receipt to keep it as evidence.

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RIGHT GAS PUMP

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20

Accepted & attested

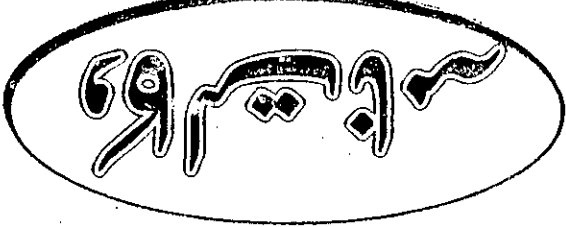
Main body of handwritten text, likely a legal or official statement, enclosed in a decorative border.

Handwritten text at the bottom of the main body, possibly a date or reference.

Handwritten text below the main body, possibly a signature or name.

Handwritten text below the signature, possibly a title or address.

Handwritten text below the title, possibly a date or location.

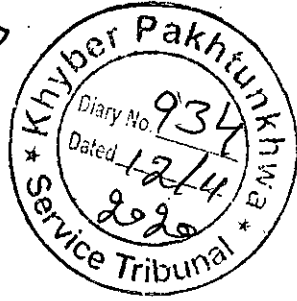


ادھر سے روٹیں KPK سروس ٹروپل سٹار

شہریت بنام حکم تعلیم و تدریس

درخواست برائے حلہ سے متعلق

Put up to the court with relevant appal.



حبیب علی

12/11/2020

Reader

گڈ رائس فیڈ! 10/10/2020 کو تھی عید اگلے سال 18/01/2020

کوئی سالہ تاریخ کو قرار دیا گیا ہے۔
بڑا صاحب سے التماس ہے کہ

سروس رول کی تاریخ ماہ رواں (نومبر 2020) میں فکری
کرتے ہوئے درخواستوں

حبیب علی گڈ رائس ہول

القاری

صدر رشتی س/گڈ رائس PS کو وزارتی اپیل نمبر 667/20

استغاثہ
12-11-2020

Be fixed during next
tour of Abbottabad.

12/11/20

VAKALATNAMA

NO. 667 /20²

IN THE COURT OF KP Service Tribunal, Pesh

Muhammad Rajwan

Appellant
Petitioner
Plaintiff

VERSUS

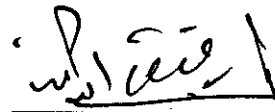
Education Dept.

Respondent (s)
Defendants (s)

I/WE Muhammad Rajwan

do hereby appoint and constitute the **SYED NOMAN ALI BUKHARI Advocate High Court** for the aforesaid Appellant(s), Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party to commence and prosecute / to appear and defend this action / appeal / petition / reference on my / our behalf and all proceedings that may be taken in respect of any application connected with the same including proceeding in taxation and application for review, to draw and deposit money, to file and take documents, to accept the process of the court, to appoint and instruct council, to represent the aforesaid Appellant, Petitioner(S), Plaintiff(s) / Respondent(s), Defendant(s), Opposite Party agree(s) ratify all the acts done by the aforesaid.

DATE _____/20



(CLIENT)

ACCEPTED


SYED NOMAN ALI BUKHARI
ADVOCATE HIGH COURT

ادفونڈیشن کی جانب سے جسٹس ایف ایچ بی بی کے پاس درخواستیں ارسال کی گئی ہیں

جانب عالی

بذرا بخش ادفونڈیشن کے ذریعہ



سٹیٹ بینک کی جانب سے ایف ایچ بی بی کے ذریعہ درخواستیں ارسال کی گئی ہیں۔ جسٹس ایف ایچ بی بی نے 18 جنوری 2021ء کو درخواستیں منظور کر لی ہیں۔ جسٹس ایف ایچ بی بی نے 2021ء سے جاری ہے۔

توندہ سے بھی سیاسی دباؤ کے تحت سٹیٹ بینک کی طرف سے ایف ایچ بی بی کے خلاف کارروائی ہوئی ہے اور اب بھی ایسی کارروائیاں جاری ہیں۔

بذرا جانب سے ایف ایچ بی بی کے ذریعہ درخواستیں ارسال کی گئی ہیں۔ جسٹس ایف ایچ بی بی نے 18 جنوری 2021ء کو درخواستیں منظور کر لی ہیں۔ جسٹس ایف ایچ بی بی نے 2021ء سے جاری ہے۔

ایف ایچ بی بی کے ذریعہ درخواستیں ارسال کی گئی ہیں۔ جسٹس ایف ایچ بی بی نے 18 جنوری 2021ء کو درخواستیں منظور کر لی ہیں۔ جسٹس ایف ایچ بی بی نے 2021ء سے جاری ہے۔

الغرض

بذرا جانب سے ایف ایچ بی بی کے ذریعہ درخواستیں ارسال کی گئی ہیں۔ جسٹس ایف ایچ بی بی نے 18 جنوری 2021ء کو درخواستیں منظور کر لی ہیں۔ جسٹس ایف ایچ بی بی نے 2021ء سے جاری ہے۔

Be fixed before
SD at Peshawar on
18/01/2021.

Plot of 600 Sq. Feet
18/01/2021

12/1/21

اکھو حساب سڈیو (م) تحصیل حویلیہ
 عنوان: تبدیلی از ڈپٹی سرورٹ سے ڈپٹی ٹیچر
 حساب عالی!



گزارش اکھو اور صلہ

س سال 2013ء سے تا حال ڈپٹی سرورٹ
 یا بانڈی سیرکان میں تعینات ہوں۔ اب
 حیلہ سرورٹ اینی 4/4 ریٹ کے مطابق سکول ڈپٹی
 ٹیچر میں سے 2021ء سے (P.S.H.T) پوسٹ
 خالی ہے اس لیے میں اپنے آپ کو حساب کی خدمت
 میں پیش کرتا ہوں۔

لذا حساب سے بہت ادب سے التماس ہے
 کہ میرا تبادلہ ڈپٹی سرورٹ سے ڈپٹی ٹیچر
 کی خدمت کو بہتر اضافی سکول ہے۔

الف

سرورٹ (P.S.H.T) ڈپٹی سرورٹ سے ڈپٹی ٹیچر

آئی اے او

05-01-2021

Head Teacher
 Govt Primary School
 Parwari

Forwarded
 TO DEO, CM
 PR. N / Action

Process through G. Transfer
 5/01/21

SDEO
 CM Haripur
 S.D.E.O (M)
 HARIPUR
 5/2021

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
CAMP COURT ABBOTTABAD.

Appeal No. 667/2020

Muhammad Rafique S/O Muhammad Khan PSHT GPS Purwari Haripur R/O Village Chajjian, Tehsil
and District Haripur. (Appellant)

VERSUS


Govt: of Khyber Pakhtunkhwa & Others.....

(Respondents)

INDEX

Sr.No	Description	Page Nos	Annexure
1	Accompanying Comments	01-02	
2	Affidavit.	03	

(Respondent)


District Education Officer (M)
Haripur

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR
CAMP COURT ABBOTTABAD.

Appeal No. 667/2020

Muhammad Rafique S/O Muhammad Khan PSHT GPS Purwari Haripur R/O Village Chajjian, Tehsil
and District Haripur. (Appellant)

VERSUS

Govt: of Khyber Pakhtunkhwa & Others..... (Respondents)

Joint Para wise Comments for and on behalf of Respondents No. 1 to 5.

Respectfully Sheweth:-

Comments on behalf of respondents are submitted as under:-

Preliminary objection:-

1. That the appellant has got no cause of action to file the instant appeal.
2. That the appellant has filed the present appeal to pressurize the respondents.
3. That the appellant has not come to this Honorable tribunal with clean hands.
4. That the appellant is estopped to sue due to his own conduct.
5. That the instant appeal is not maintainable due to non-joinder and mis-joinder of necessary parties.
6. That the inquiry regarding the case of the appellant has been conducted by the Additional Director E&SE Khyber Pakhtunkhwa and the choice to adjust the appellant within the area of 2 to 4 KM from his home has been given to him which was refused by him and he enforced the authority to adjust him only at GPS Chajjian where he has dispute with the community, thus he could not be adjusted at GPS Chajjian due to the risk of conflict between the appellant and the residents of the village.

Factual objections:-

1. Para No. 1 is correct, hence no comments.
2. That Para No.2 is incorrect. That the appellant has been adjusted at the nearest station to his home but he refused.
3. Para No. 3 is correct, hence needs no comment.
- ✓ 4. Incorrect, that the appellant has been adjusted from GPS Chajjian to GPS Kiyyan nearest possible station to his home because of the dispute between the appellant and the residents of the village, in accordance with law, rules and policy.
5. Incorrect, that the transfer order dated 20-08-2019 has been passed in the best interest of the public service and to avoid the dispute between the appellant and the villagers on which there is no ban in any situation.
6. Incorrect, the adjustment/reposting of the appellant was within the legal sphere and there was no politic involved in the matter.
7. Incorrect, that the appellant has dispute with the local villagers of Chajjian, Union Council Rehana, thus he could not be adjusted in any condition in GPS Chajjian and he was adjusted nearest station to his home GPS Kiyyan.

8. Incorrect that no political influence has been involved in the posting of appellant and his adjustment was made in accordance with law, rules and policy.
9. Incorrect, no political pressure was involved in the adjustment of the appellant which was made fairly in accordance with natural justice.
10. Incorrect, although the appellant has been performing his duties honestly but he could not be adjusted at GPS Chajjian due to avoidance of the conflict between him and the villagers and there is no involvement of the politicians in the entire procedure.
11. Incorrect, that there is no ban on the transfer in the best interest of public service according to rules and regulations.
12. Incorrect, that the inquiry regarding the case of the appellant has been conducted and finally he could not be adjusted at GPS Chajjian due to dispute between him and local community.
13. Correct, hence needs no comment.
14. Incorrect, that the respondents conducted the inquiry regarding the case of the appellant and he was offered for the adjustment at the nearest station to his home within the limit of 2 to 4 KM but he refused, thus he could not be adjusted anywhere.
15. That the case of the appellant is not maintainable and liable to be dismissed inter-alia on the following grounds.


GROUNDS

- a. Para "a" is incorrect. There was no political influence involved in the reposting of the appellant from GPS Chajjian to GPS Kiyyan which was made in accordance with law, rules and policy which is liable to be maintained.
- b. Incorrect, that the appellant has been adjusted from GPS Chajjian to GPS Kiyyan through corrigendum due to conflict between the appellant and the villagers which is liable to be maintained.
- c. That ground "c" is incorrect, that there is ban on the transfer in the best interest of public service in any condition at any time.
- d. That other points shall be agitated at the time of arguments.

PRAYER

Under the circumstances, it is humbly prayed that the instant appeal is meritless, hence liable to be dismissed without further proceeding.

RESPONDENT


District Education Officer (M)
Haripur.

On the behalf of
1, 2134.


18/1/20

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR CAMP COURT ABBOTTABAD.

Appeal No. 667/2020

Muhammad Rafique.....

(Appellant)

VERSUS

Govt: of Khyber Pakhtunkhwa & Others.....

(Respondents)

AFFIDAVIT

I, Mr. Muhammad Saleh Mushtaq ,Assistant District Education Officer (lit:) Haripur, do hereby affirm and declare that contents of forgoing comments are correct and true according to the best of my knowledge and belief and nothing has been suppressed from this Honorable Tribunal.

Deponent

ADEO Litigation

O/O DEO (M) HARIUR

o/s



For Appellant
M. Rafique

Sr. No. Date of order/ proceedings

Order or other proceedings with signature of Judge or Magistrate

2

3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. 66/2018

Date of Institution ... 16.01.2018

Date of Decision ... 04.04.2018

Muhammad Miskeen, Head Clerk, (BPS-16) Hazara Irrigation Division, Abbottabad.

APPELLANT

1. The Secretary to Government of Khyber Pakhtunkhwa Irrigation Department, Peshawar.
2. The Chief Engineer (SOUTH) Irrigation Department, Khyber Pakhtunkhwa Peshawar.
3. Muhammad Hamayun Head Clerk, Swabi Irrigation Division No.2 Swabi.

RESPONDENTS

JUDGMENT

MUHAMMAD HAMID MUGHAL, MEMBER: -

04.04.2018

Learned Counsel for the appellant present. Learned Deputy District Attorney on behalf of official respondents present. Learned Counsel for private respondent No. 3 present.

2. The appellant has filed the present appeal u/s 4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 13.12.2017 whereby transfer/posting order dated 02.11.2017 regarding transfer of appellant from

Swabi Irrigation Division No.2 Swabi to Hazara Irrigation Division Abbottabad was cancelled. The departmental appeal of the appellant could not prove successful. Hence the present service appeal.

3. Learned counsel for the appellant argued that the appellant was stationed at Swabi Irrigation Division since year 2014 while respondent No.5 was stationed at Hazara Irrigation Division Abbottabad since year 2014; that vide order dated 02.11.2017 the appellant was transferred to Hazara Irrigation Division Abbottabad while respondent No.3 was transferred to Swabi Irrigation Division No.2 Swabi, however just after one month of the issuance of transfer order, the respondent department cancelled the same vide impugned order dated 13.12.2017 on the basis of political influence and in violation of transfer/posting policy. Learned counsel for the appellant vehemently stressed that the impugned order is liable to be set aside.

4. As against that learned counsel for private respondent argued that the appellant was promoted as Head Clerk vide order dated 07.11.2016 and was still on probation when the transfer order dated 02.11.2017 was issued hence the same

awin

was rightly cancelled by the respondent department. Further argued that after promotion to the post of Head Clerk on regular basis vide order dated 07.11.2016 the appellant has not yet completed his normal tenure at Swabi Irrigation Division No.2 Swabi as such the impugned order is not open to any exception.

5. Learned DDA adopted the arguments of Learned counsel for private respondent and relied upon the written reply/para wise comments of the official respondents.

6. Arguments heard. File perused.

7. It is not disputed that the appellant was serving at Swabi Irrigation Division No.2 Swabi and respondent No.3 was serving at Hazara Irrigation Division Abbottabad since year 2014 and vide order dated 02.11.2017 the appellant was transferred from Swabi to Abbottabad while respondent No.3 was transferred from Abbottabad to Swabi. However after one month of issuance of transfer order, the same was cancelled by respondent department without assigning any reason in the impugned order dated 13.12.2017.

8. Learned DDA remained unable to demonstrate any

5/11/17

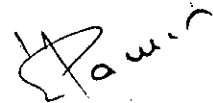
valid reason or exigencies of service due to which the transfer order dated 02.11.2017 was cancelled just after one month of its issuance.

9. There is no dispute that the respondent No.3 has already served for a period more than his normal tenure at Abbottabad before his transfer to Swabi Irrigation Division No.2 Swabi vide order 02.11.2017. Arguments of learned counsel for private respondent No.3 that the appellant should not be transfer out from Swabi Irrigation Division No.2 Swabi being a probationer, carries no weight.

10. In the light of above discussion this Tribunal is of the considered opinion that the impugned order dated 13.12.2017 is arbitrary and issued on extraneous considerations, hence not tenable in the eyes of law. Consequently the present service appeal is accepted and the impugned order dated 13.12.2017 is set aside, resultantly the transfer order dated 02.11.2017 is restored. Parties are left to bear their own costs. File be consigned to the record room after its completion.



(AHMAD HASSAN)
MEMBER

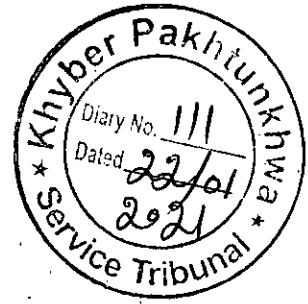


(MUHAMMAD HAMID MUGHAL)
MEMBER

اکھوہہ قلمین ہا KPK آوں ٹروٹل پٹاور

تھارٹین نیٹم تھم تعلیم و تھمہہ ریل 667/20

درخواست اے اے جلی سے سماعت / حکم امتناعی فالی لوٹ



Part of P & T
Service Tribunal
of and Aile.

Reader
22/1/2021

فیلڈ علی ا
نیٹ اپ اب سے درخواست تھم ا
سے اے اے در درخواست طر حکم امتناعی فالی لوٹ PSHT

shall be laid
before SB. today.

PSHT تھمہہ تھم لوٹ (تھمہہ تھمہہ) 22/01/2021

دی تھم تھمہہ تھمہہ 2021 کو سماعت تھم تھمہہ
تھمہہ و تھمہہ حکم امتناعی تھمہہ تھمہہ تھمہہ
تھمہہ 15 مارچ 2021 تھمہہ تھمہہ

25/01
g

تھمہہ تھمہہ تھمہہ تھمہہ

It is already
past 12:30 PM
on a Friday thm
S-B is not available

تھمہہ تھمہہ تھمہہ تھمہہ تھمہہ
تھمہہ تھمہہ تھمہہ

25/01

القائل

تھمہہ تھمہہ PSHT / GPS تھمہہ تھمہہ

تھمہہ تھمہہ
22-01-2021

22/1/21