


26.11.2020

Junior counsel for petitioner is present. No one on behalf of the respondents is present at the moment i.e 12:50 P.M. The learned Additional Advocate General is directed to contact the respondents for submission of implementation report. File to come up for implementation report on 19.01.2021 before S.B.

  
(MUHAMMAD JAMAL KHAN)  
MEMBER (JUDICIAL)

19.01.2021

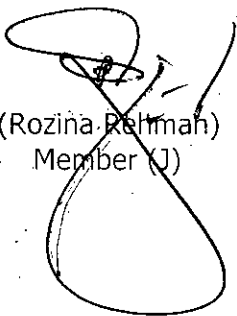
Zahoor Islam Advocate present on behalf of petitioner.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Former requested for withdrawal of the instant execution proceedings. To this effect, his statement was also recorded.

In view of above, the instant execution proceedings stand filed being fully satisfied. File be consigned to the record room.

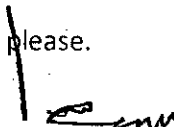

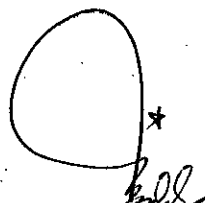
Announced.  
19.01.2021

  
(Rozina Rehma)  
Member (J)

FORM OF ORDER SHEET

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

Execution Petition No. 028 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	09.09.2020	<p>The Execution Petition submitted by Mr. Manzoor Ahmad through Mr. Zahoor Islam Khattak Advocate may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>2- This Execution Petition be put up before S. Bench on <u>02/10/2020</u></p> <p style="text-align: right;"> CHAIRMAN</p>
	02.10.2020	<p>Counsel for petitioner as well as Mr. Kabir Ullah Khattak learned Additional Advocate General for respondents present. Notices be issued to respondents directing them to submit implementation report at the earliest. To come up for implementation report on 26.11.2020 before S.B.</p> <p style="text-align: right;"> (Mian Muhammad) Member (E)</p>

Statement of Zahoor Islam Khattak Advocate, counsel for  
petitioner, on oath:

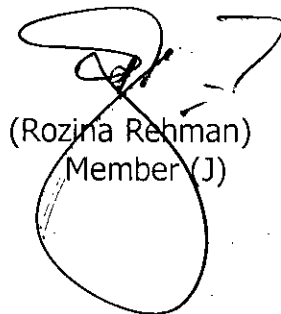
As per instructions of petitioner, i seek withdrawal of instant  
application/execution petition being fully satisfied.

R.O & A.C

Dated: 19.01.2021



Zahoor Islam Advocate.



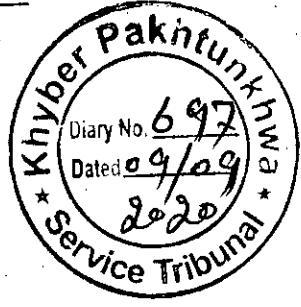
(Rozina Rehman)  
Member (J)

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

Implementation No. 128 of 2020

In

Appeal No.1129/2020



Manzoor Ahmad Driver, SDO (Female) Banda Daud  
Shah District Karak.

..... Appellant

**VERSUS**

- 1) Director, Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar.
- 2) District Education Officer (Female) District Karak.
- 3) SDEO (Female) Takht-e-Nasrati District Karak
- 4) Asif Iqbal Driver, SDEO (Female) District Karak.

..... Respondents

**APPLICATION FOR IMPLEMENTATION**  
**OF JUDGMENT DATED 22/07/2020 IN**  
**APPEAL NO.1129/2020**

Respectfully Sheweth:

- 1- That the above noted appeal was pending adjudication in this Hon'ble Tribunal and was decided vide judgment and order dated 22/07/2020.
- 2- That vide judgment and order dated 22/07/2020, this Hon'ble Tribunal while accepting the appeal of the appellant, directed respondents to Transfer the applicant/

appellant from SDEO (Female) Banda Daud Shah to SDEO (Female) Takht-e-Nasrati and the impugned corrigendum dated 28/05/2019 was set aside and transfer order dated 25/05/2019 was restored in the public interest. (Copy of judgment/order is annexed herewith).

- 3- That the judgment and order of this Hon'ble Tribunal, was duly communicated to the respondent by the applicant for implementation. Since no response was given to his application for the implementation of the judgment, however, they are reluctant to implement the judgment of Hon'ble Tribunal. (Copy of application is annexed herewith).
- 4- That instead of implementation the judgment of this Hon'ble Tribunal the respondents are bent upon to victimize the applicant one way or the other.
- 5- That as per the spirit of the judgment and order dated 22/07/2020 of this Hon,ble Tribunal, the respondents are bound to implement the order of this Hon'ble Tribunal. However, they have not implemented the judgment and order of this Hon'ble Tribunal in its true letter and spirit so far.

6- That the respondents are legally bound to implement the judgment of this Hon'ble Tribunal in its true letter and spirit without any further delay.

It is, therefore, prayed that on acceptance of this application the judgment and order dated 22/07/2020 of this Hon'ble Tribunal be implemented in its true and spirit if the judgment of this Hon'ble Tribunal is not implemented this application may kindly be consider as Contempt petition.

Any other relief which deems fit and appropriate this Hon'ble Court may also awarded to the applicant/ appellant.

Dated 02/09/2020

Applicant

Through

Zahoor Islam Khattak  
Advocate,  
High Court Peshawar

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL PESHAWAR**

Implementation No. \_\_\_\_\_ of 2020

In

Appeal No.1129/2019

Manzoor Ahmad Driver, SDO (Female) Banda Daud  
Shah District Karak.

..... **Appellant**

**VERSUS**

1- Director, Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar.

2- District Education Officer (Female) District Karak.

3- SDEO (Female) Takht-e-Nasrati District Karak

4- Asif Iqbal Driver, SDEO (Female) District Karak.

..... **Respondents**

**AFFIDAVIT**

I, Manzoor Ahmad Driver, SDO (Female) Banda  
Daud Shah District Karak do hereby solemnly affirm  
and declare on oath that the contents of the  
accompanied application are true and correct to the best  
of my knowledge and belief and nothing has been  
concealed from this Hon'ble Tribunal.

*Manzoor*

**DEPONENT**

**CNIC # 14203-3864314-1**

*Attested*  
**Muneeb ur Rehman**  
**OATH**  
**COMMISSIONER**  
*Advocate High Court District Karak*  
*01-01-2020*

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 1129/2019

Date of Institution: 05.09.2019

Date of Decision: 22.07.2020



Manzoor Ahmad, Driver SDO Female Banda Daud Shah, Karak.

... (Appellant)

**VERSUS**Director Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar  
and Three (03) others

... (Respondents)

Mr. Zahoor Islam Khattak  
Advocate

... For Appellant

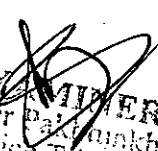
Mr. Riaz Paindakhel  
Assistant Advocate General

... For Official Respondents

Muhammad Ishaq  
Advocate

... For Private Respondent No.4

Mr. HAMID FAROOQ DURRANI  
Mr. ATTIQ UR REHMAN... **CHAIRMAN**  
... **MEMBER (E)****ATTESTED**

  
 MEMBER  
 Khyber Pakhtunkhwa  
 Service Tribunal,  
 Peshawar

**JUDGEMENT: -**

**Mr. ATTIQ UR REHMAN:** - Appellant Mr. Manzoor Ahmad was initially appointed as Driver in District Education Officer (Female) Karak. He was transferred by Respondent No. 2 to the office of SDEO(Female) Takhti Nasrati vide Notification No. 2519-23 dated 25.05.2019 and within three days re-transferred to SDEO (Female) Banda Daud Shah vide Corrigendum



No. 2669-72 dated 28.05.2019. The appellant has assailed the corrigendum dated 28.05.2019, whereby the appellant was allegedly re-transferred to Banda Daud Shah on political pressure exerted by private respondent No 4.

2. Brief facts of the case are that the appellant Mr. Manzoor Ahmad was appointed as Driver and posted in the office of DEO (Female) Karak since 2013. SDEO (Female) Takhti Nasrati submitted a complaint Dated 22.05.2019 to the office of DEO (Female) Karak against Driver Asif Iqbal (Private respondent No 4) and requested for another driver in his place. The DEO (Female) Karak vide Notification dated 25.05.2019 transferred Driver Asif Iqbal from Takhti Nasrati to the office of DEO (Female) Karak, whereas the appellant was transferred from Karak to Takhti Nasrati in place of respondent No. 4. The appellant reported arrival in Takhti Nasrati on 27.05.2019, but he was not allowed to resume charge of his duties. In the meanwhile, another notification/corrigendum dated 28.05.2019 was issued by the office of DEO(Female) Karak, whereby the appellant was transferred to Banda Daud Shah and respondent No 4 was retained in Takhti Nasrati. Aggrieved by the impugned order dated 28.05.2019, the appellant preferred an appeal to respondent No. 1 on 29.05.2019, which was not attended to so he approached this Tribunal through the instant appeal wherein he sought cancellation of the impugned corrigendum dated 28-05-2019.

3. Written reply/comments were submitted by respondents No 1,2,3 jointly and private respondent No. 4 separately.

4. Arguments heard and record perused.

**ATTESTED**

**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

5. Mr. Zahoor Islam Khattak, learned counsel for the appellant contended that the appellant was transferred in a time, when there was complete ban on posting/transfers in education Department in the first place. He referred to the Government of Khyber Pakhtunkhwa, Elementary & Secondary Education Department Notification dated 14.02.2019 imposing ban on all kinds of posting/transfers in the department till further orders. Further contended that despite the fact, the appellant abided by the order and reported arrival on 27.05.2019, but he was not allowed to resume his duties in Takhti Nasrati due to political pressure exerted by private respondent No

4. It was further clarified that Respondent No 4 was transferred under complaint from Takhti Nasrati due to his unsatisfactory performance, yet he was influential enough to cancel his transfer and retain himself in Takhti Nasrati, but the appellant, instead of sending back to Karak, was transferred to a far flung area (Banda Daud Shah), commuting daily 150 km to attend to his duties, which is difficult both financially as well as physically for a low paid employee and which is contrary to the norms of natural justice. The learned counsel for the appellant further argued that the impugned corrigendum dated 28.05.2019 was not corrigendum but a subsequent transfer order and that too in three days, was not in the public interest but in the interest of respondent No. 4. The learned counsel for the appellant further argued that the appellant performed his duties with due diligence and to the entire satisfaction of the high-ups and no complaint whatsoever was made against the appellant. On the other hand, respondent No 4 was under complaint but was favored. The learned counsel also referred to fundamental rights of the appellant involved in this case.

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EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

6. The learned Assistant advocate General appeared on behalf of official respondents and opposed the contention of learned counsel for appellant. He argued that both transfer order dated 25.05.2019 and corrigendum dated 28.05.2019 were issued in ban period, but it's strange that the first order is acceptable to the appellant, whereas the corrigendum is not acceptable to him, so the plea taken by the appellant is devoid of sense. He further argued that the transfer order and corrigendum was issued in the public interest with no malafide intention and no trace of any political interference. Counsel for the appellant failed to provide any evidence which prove political interference in this case. He further informed that the appellant remained posted in Karak for more than six years and has already completed his tenure in Karak. Being a civil servant, he is supposed to serve in any part of the district. Furthermore, he is not transferred out of the district but from one Tehsil to another Tehsil of the same district. He further argued fundamental rights of the appellant involved in this case is not the domain of Service Tribunal and he should consult the appropriate forum for it.

7. Muhammad Ishaq Advocate appeared on behalf of private respondent No. 4 and argued that respondent No 4 was initially appointed as driver in the office of SDEO (Female) Takhti Nasrati on 20.12.2017 vide Notification No. 4250-56 dated 20.12.2017 and has not completed his tenure in Takhti Nasrati, whereas the appellant has served for more than six years in Karak. The appellant failed to provided any evidence leading to involvement of political interference by respondent No. 4 or malafide intention of the official respondents. It was further argued that the appellant was not transferred

ATTESTED

EXAMINER  
 Member Peshawar  
 Service Tribunal  
 Peshawar

out of district but to another tehsil of the same district and respondent No. 4 is comparatively more away than appellant from the place of duty.

8. We are conscious of the fact that transfer of any Government servant can be made by the competent authority in the exigency of service and public interest. No government servant has a legal right to remain posted at a particular place, but where transfer order is malafide and for extraneous consideration to accommodate some blue-eyed chap is justiciable. In such an eventuality, the matter would squarely fall within jurisdictional domain of Service Tribunal. In the instant case, record reveals that SDEO(Female) Takhti Nasrati lodged a complaint on 22.05.2019 against respondent No. 4 for his unsatisfactory performance and requested for another driver in his place. Consequently DEO(Female) Karak transferred respondent No. 4 from Takhti Nasrati to Karak on 25.05.2019 and the appellant was transferred in his place and which was made in the public interest and on the complaint of a responsible officer. Initial transfer order dated 25.05.2019 contained transfer of three drivers, whereas the impugned corrigendum dated 28.05.2019 was not in fact a corrigendum but a subsequent transfer order involving transfer of four drivers including the appellant and that too in a period of three days, which was based on malafide intention to retain respondent No. 4 In spite of the fact that respondent No. 4 was under compliant. The so-called corrigendum dated 28-05-2019 was not issued in the public interest but in the interest of respondent No. 4.


9. In view of the above, the instant appeal is accepted and the impugned corrigendum dated 28.05.2019 stands set aside. The transfer order dated


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EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

25.05.2019 is restored in the public interest. No orders as to costs. File be  
consigned to the record room.

ANNOUNCED  
22.07.2020

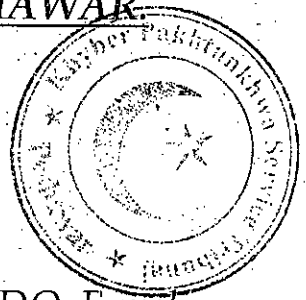
  
(ATIQU UR REHMAN)  
MEMBER (E)

  
(HAMID FAROOQ DURRANI)  
CHAIRMAN

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

Date of Presentation of Application 19/8/2020  
Number of Words 2800  
Copying Fee 30.00  
Urgent —  
Total 30.00  
Name of Copyist [Signature]  
Date of Completion of Copy 26/8/2020  
Date of Delivery of Copy 26/8/2020

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR



Service Appeal No. 1129 of 2019

Manzoor Ahmad S/o Rabnawaz, Driver SDO F-male  
Banda Daud Shah Karak.

..... Appellant

VERSUS

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 1233

Dated 05/9/2019

- 1- Director of Elementary & Secondary Education, KPK, Peshawar.
- 2- District Education Officer (Fe-Male) Karak.
- 3- SDEO, (Fe-Male) Takht-e-Nasrati District Karak
- 4- Asif Iqbal Driver, SDEO Fe-Male Takht-e-Nasrati District Karak

..... Respondents

Filed to-day

Registrar


5/9/19

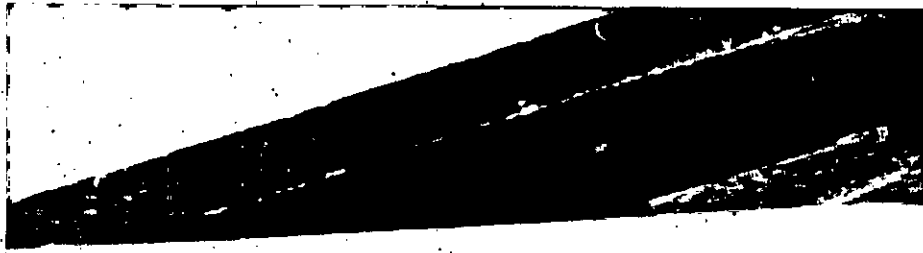
APPEAL UNDER SECTION 4 OF KPK SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED TRANSFER ORDER DATED 28/05/2019 COMMUNICATED TO THE APPELLANT, WHEREBY THE APPELLANT FILED DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER DATED 28/05/2019 WHICH HAS NOT BEEN DECIDED WITHIN STATUTORY PERIOD OF 90 DAYS.

Prayer

On acceptance of appeal, the above referred impugned order dated 28/05/2019 may be set aside and order dated 25/05/2019 of the respondent No.3 may kindly be restored in the best of interest of justice and which is most suitable and convenient.

ATTESTED

  
Registrar  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar





کچھ دہائیوں سے لے کر اب تک کے حالات (پہلے دور)  
 میں سے کچھ چیزیں یاد آ رہی ہیں جو ابھی تک یاد آ رہی ہیں  
 (دوسرے حالات)


ادھر سے سنائی دینا شروع ہوا اور ہم نے اسے یاد کیا اور وہ  
 ڈراموں اور فلموں کی طرح دکھائی دینا شروع ہوا اور وہ  
 ماہانہ دوسرا ہوا اور ہم نے اسے یاد کیا اور وہ  
 ص ۱۱۱ - کورجیکٹ (پہلے دور) میں ۱۱۱ اور اس کے بعد اس کی  
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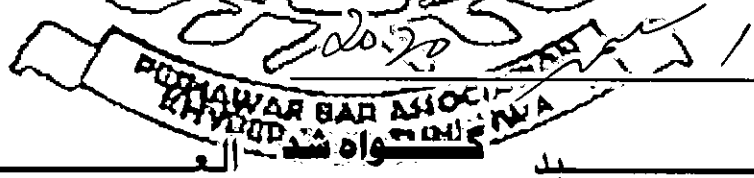
قیمت 50 روپے	56966			
ایڈوکیٹ: 		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل ایسوسی ایشن نمبر: bc-10-9170		رابطہ نمبر: 0346-9083579		

بعدالت جناب: محمد صہب سہروردی

مخائب: <u>منظور احمد</u>	دعویٰ: <u>سہروردی</u>
	علت نمبر:
	مورخہ: <u>1/9/2020</u>
	جرم:
	تھانہ:

**باعث تحریر آنکہ**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ آن مقام محمد صہب سہروردی کے لئے سہروردی کے لئے منظور احمد کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کی طرف سے یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے نقرہ کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور ان کا ساختہ پر داخلہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المقوم: محمد صہب سہروردی  


مقام پشاور کے لیے منظور ہے۔

Accepted

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

Attested



بند 2 العاقلہ

منظور احمد سہروردی SPEO (F) اور سہروردی منظور احمد