

**BEFORE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

C.O.C No. _____/2023

IN

Service Appeal No. 24/2021

Syed Amjad Ali (BS-19), Additional Director (CTR) DCTE, Khyber Pakhtunkhwa, Abbottabad.

...PETITIONER

VERSUS

Chief Secretary, Khyber Pakhtunkhwa, Peshawar & others.

...RESPONDENTS

CONTEMPT PETITION

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...PETITIONER/APPELLANT

Through



**BEFORE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

C.O.C No. _____/2023

IN

Service Appeal No. 24/2021

Syed Amjad Ali (BS-19), Additional Director (CTR) DCTE, Khyber
Pakhtunkhwa, Abbottabad.

...PETITIONER

VERSUS

1. Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. Secretary to Government, Khyber Pakhtunkhwa, Elementary &
Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
3. Deputy Secretary Admin, Khyber Pakhtunkhwa, Peshawar.
4. Director, Elementary & Secondary Education Department, Khyber
Pakhtunkhwa, Peshawar.
5. Mr. Jaffar Mansoor Abbasi (MC BS 19), Awaiting Posting/ Posted as
Additional Director, (DCTE) KP, Abbottabad.

...CONTEMNORS/ RESPONDENTS

**APPLICATION FOR INITIATING CONTEMPT OF
COURT PROCEEDINGS AGAINST CONTEMNORS/
RESPONDENTS FOR WILLFULLY DISOBEYING
THE JUDGMENT DATED 21.07.2022 PASSED IN
SERVICE APPEAL NO. 24/2021 BY THIS
HONOURABLE TRIBUNAL, VIDE WHICH THIS
HONOURABLE TRIBUNAL HAS ACCEPTED**

INSTANT APPEAL OF THE APPELLANT AND SET-
ASIDE THE IMPUGNED TRANSFER ORDER
DATED 23.12.2021 WITH THE DIRECTIONS TO
THE CONTEMNORS/ RESPONDENTS TO ALLOW
THE APPELLANT TO COMPLETE HIS NORMAL
TENURE.

Respectfully Sheweth:-

Brief facts of the instant contempt petition are as under:

1. That the petitioner/ appellant is serving as Additional Director BP-19 Curriculum & Textbooks Review at Directorate of Curriculum & Teacher Education (DCTE) KP Abbottabad since 21.06.2021 and performing duties with sincerity and devotion to the entire satisfaction of his superiors. **Copy of notification No. SO(SM)E&SED/7-1/2021/Posting/Transfer/General dated 04/06/2021 is annexed as Annexure "A".**
2. That the petitioner/ appellant was earlier transferred to Principal BP-19 at GHSS Nathiagali, Abbottabad vide SO (SM)/ ESED/7-1/2021/PT/MC/DCTE/ Dated: 23.12.2021.
Copy of notification dated 23/12/2021 is attached as Annexure "B".

3. That the petitioner/ appellant submitted Departmental representation then preferred Service Appeal 24/2021 and the Hon' Chairman Service Tribunal passed decision on 21.07.2022 and directed the respondents/ Department to allow the petitioner/ appellant to complete his normal tenure. **Copy of representation is attached as Annexure "C".**
4. That the petitioner/ appellant once again transferred from DCTE KP Abbottabad to GHSS Salabat, Mansehra as Principal BPS-19 on 10.02.2023 in result of premature transfer, against the sheer spirit of decision passed by the Honourable Service Tribunal Decision in Appeal No: 24/2021 Dated: 21.07.2022, as malafide and apparent repeated victimization. **Copy of appeal, order dated 21/07/2022 and impugned Notification Dated: 10.02.2023 are attached as Annexure "D" and D"I" respectively.**
5. That the impugned order is arbitrary based on malafide facts and law, just to extend unwarranted and unlawful relief of posting of his choice to Mr. Jaffar Mansoor Abbassi, who has remained in this Directorate w.e.f: 01.01.2022 to 31.08.2022 previously against the post of

Director BP-20 vide No: SO (E-I)E& AD/9-88/E&SE/2021. He was then posted as DEO BP-19 Charsadda vide SO (MC)/ ESED /4-16/2022 /PT/ MC Dated: 29.08.2022 and now again, he is posted back to work against a lower post of Additional Director, indicates that malafide intentions do have legs to stand. This further indicates his state of mind preference of posting, that allows him to go, even from Director (Higher) to Additional Director (Lower) in the same Directorate.

6. That the petitioner/ appellant is serving in BS-19 Teaching Cadre (TC), whose PSB for Grade 20 has been delayed since January 2023.
7. That the post of Additional Director Curriculum & Textbooks Review, which relates more to academic (curriculum & textbooks review) rather than administrative. The clarity was also sought from ESED in the Service appeal, when decision passed by the Hon' Chairman ST KP on 21.07.2022 by directing Department to allow the appellant to complete tenure. Furthermore Mr. Jaffar Mansoor Abbassi is the senior most officer In BP-19 in Management Cadre (MC) and is due

for promotion in BP-20 and has experience in the field of Assessment, being previously served as National Assessment Expert at NEAS Islamabad.

8. That the appellant has been the Focal Person in Phase II and III of National Curriculum Pakistan (NCP) 2022, 2023 and coordinates with KP Textbook Board and National Curriculum Council (NCC) Islamabad on need basis, under the supervision & guidance of Secretary ESED KP & Director DCTE.

PRAYER;- It is most humbly prayed that on acceptance of the instant COC, the contempt of court proceedings be initiated against the respondents/ contemnors for willfully disobeyed the order of this Honourable Tribunal and the impugned notification bearing No. SO(MC)E&SED/4-16/2022/Posting/ Transfer/MC dated 10/02/2023 may kindly be cancelled/ set aside.


...PETITIONER/APPELLANT

Through

Dated: _____/2023


(SYED ASIF SHAH)

Advocate High Court, Abbottabad

**BEFORE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

C.O.C No. _____/2023

IN

Service Appeal No. 24/2023

Syed Amjad Ali (BS-19), Additional Director (CTR) DCTE, Khyber Pakhtunkhwa, Abbottabad.

...PETITIONER

VERSUS

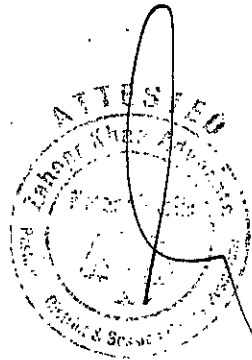
Chief Secretary, Khyber Pakhtunkhwa, Peshawar & others.

...RESPONDENTS

CONTEMPT PETITION

AFFIDAVIT

I, *Syed Amjad Ali (BS-19), Additional Director (CTR) DCTE, Khyber Pakhtunkhwa, Abbottabad*, do hereby affirm and declare that no such like contempt of court petition is filed or pending before any court and it is further declare that the contents of foregoing petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.



[Signature]
DEPONENT

**BEFORE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR**

C.O.C No. _____/2023

IN

Service Appeal No. 24/2023

Syed Amjad Ali (BS-19), Additional Director (CTR) DCTE, Khyber Pakhtunkhwa, Abbottabad.

...PETITIONER

VERSUS

Chief Secretary, Khyber Pakhtunkhwa, Peshawar & others.

...RESPONDENTS

CONTEMPT PETITION

APPLICATION FOR SUSPENSION OF IMPUGNED NOTIFICATION NO. SO(MC)E&SED/4-16/2022/ POSTING/ TRANSFER/MC DATED 10/02/2023 MAY KINDLY BE SUSPENDED TILL FINAL DECISION OF INSTANT PETITION.

Respectfully Sheweth:-

1. That the titled contempt of court petition is being filed before this Honourable Court, contents of same may kindly be treat and read as an integral part of main petition.
2. That the petitioner/ appellant has brought a good prima facie case and balance of convenience also lies in his favour.

3. That if the operation of notification bearing No. SO(MC)E&SED/4-16/2022/Posting/ Transfer/MC dated 10/02/2023 is not cancelled/ suspended, in that case the petitioner/ appellant will face irreparable loss and purpose of filing of main appeal would become defeated.
4. That the valuable rights of the petitioner/ appellant involved.

It is therefore, most humbly prayed that by accepting this application the notification bearing No. SO(MC)E&SED/4-16/2022/Posting/ Transfer/ MC dated 10/02/2023 may kindly be suspended till final decision of main appeal.



...PETITIONER/APPELLANT

Dated: _____/2023

Through

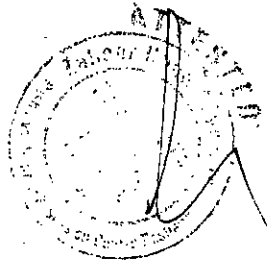
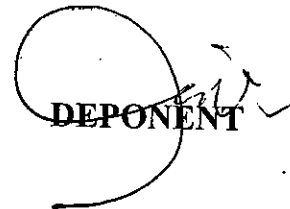


(SYED ASIF SHAH)

Advocate High Court, Abbottabad

AFFIDAVIT:-

I, *Syed Amjad Ali (BS-19), Additional Director (CTR) DCTE, Khyber Pakhtunkhwa, Abbottabad* do hereby solemnly affirm and declare that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

DEPONENT



-9- Annexure (A)

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

Dated Peshawar the June 04, 2021

NOTIFICATION

NO.SO(SM)E&SED/7-1/2021/Posting/Transfer/General: The Competent Authority is pleased to order the transfer (on mutual basis) of the following teachers of Elementary & Secondary Education Department. in the best public interest, with immediate effect:-

S#	Name with designation	From	TO
1.	Mr. Zulfiqar Ahmad Additional Director (BS-19)	DCTE Khyber Pakhtunkhwa, Abbottabad	Principal (BS-19) GHS Sheikh-ul Bandi Abbottabad. V.S#2
2.	Syed Amjad Ali Principal (BS-19)	GHS Sheikh ul Bandi, Abbottabad	Additional Director (BS-19), DCTE Khyber Pakhtunkhwa, Abbottabad. V.S#1

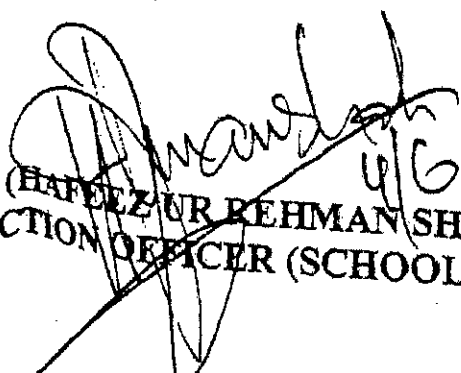
**SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA
E&SE DEPARTMENT**

Ends: of even No. & Date

Copy forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director, E&SE, Khyber Pakhtunkhwa, Peshawar.
3. Director, DCTE Khyber Pakhtunkhwa, Abbottabad
4. District Education Officers (M&F), Concerned.
5. District Education Officers, Concerned.
6. District Accounts Officers, Concerned.
7. PS to Minister for E&SE Department.
8. PS to Secretary E&SE Department.
9. PS to Special Secretary E&SE Department.
10. PA to Deputy Secretary (Admn) E&SE Department.
11. Officers concerned.
12. Master file.

*Attended to be
true copy*


HAFEZUR REHMAN SHAH
SECTION OFFICER (SCHOOLS MALE)



Dated Peshawar, the December 23, 2021

NOTIFICATION

NO.SO(SME&SED/7-1/2021)/PT/MC/DCTE: The Competent Authority is pleased to order the transfer of the following Officers of Elementary & Secondary Education Department, in the best public interest, with immediate effect:-

10-

S#	Name & designation	From	To
1.	Mst. Zohra Begum MC (BS-19)	District Education Officer (F) Ballagram.	Additional Director (Assessment & Evaluation), DCTE Abbottabad vice S No.04.
2.	Mr. Muhammad Athar, SS (Material Development) BS-19	Directorate of Curriculum & Teachers Education Abbottabad.	Additional Director (Standards) DCTE Abbottabad against the vacant post.
3.	Mr. Zulfiquar Khan TC (BS-19)	Principal GHS Sheikhul Bandi District Abbottabad	Additional Director (Curriculum & Textbook), DCTE Abbottabad vice S.No. 05.
4.	Mr. Amin Dad, TC (BS-19)	Additional Director (Assessment & Evaluation), DCTE Abbottabad.	Principal (BS-19) GHSS Kakotri District Haripur against the vacant post.
5.	Syed Amjid Ali Shah, TC (BS-19)	Additional Director (Curriculum & Textbook), DCTE Abbottabad.	Principal (BS-19) GHS Nathia Gali District Abbottabad against the vacant post.

SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA
E&SE DEPARTMENT

Endst: of even No. & Date

Copy forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
3. Director, Curriculum & Teachers Education Abbottabad
4. District Education Officer (Male) concerned.
5. District Account Officers concerned.
6. Director, EMIS E&SE Department.
7. PS to Minister for E&SE Department.
8. PS to Secretary E&SE Department.
9. PA to Deputy Secretary (Admn) E&SE Department.
10. Officers concerned.
11. Office order file.

Attended to be
True copy
C.

(HAFEEZ UR REHMAN SHAH)
SECTION OFFICER (SCHOOLS MALE)

-11-



Annexure

BEFORE THE HONOURABLE CHIEF SECRETARY TO THE GOVT. KHYBER PAKHTUNKHWA, PESHAWAR

Subject: Departmental Appeal against the Notification No: SO (SM)E&SED/7-1/2021/PT/MC/DCTE Dated:23.12.2021, where by the appellant has been transferred against the post of Principal (BS-19) GHS NATHIAGALI, Abbottabad in violation of Provincial Government decision and transfer/posting policy (COPY ANNEXED AND MARKED AS "A")

Prayer: On the acceptance of instant departmental it, therefore, requested that the impugned order No: SO(SM)E&SED/7-1 / 2021 / PT / MC / DCTE Dated: 23.12.2021, passed by the competent authority (against the Provincial cabinet decision) may kindly be set aside and the appellant may be allowed to continue his services as Additional Director Curriculum & Textbooks Review at Directorate of Curriculum and Teacher Education (DCTE) KP Abbottabad.

**Respectfully
Sheweth**

I would like to invite your kind attention to the following facts.

1. That the appellant is serving as Additional Director BPS-(19) Curriculum & Textbooks Review at Directorate of Curriculum & Teacher Education (DCTE) KP Abbottabad since 21.06.2021 and performing duties with sincerity and devotion to the entire satisfaction of his superior.
2. That the appellant is recently posted at this Directorate vide E&SED Notification No: SO(SM)/ESED/7-1/2021/Posting/Transfer/General/ Dated: 04.06.2021 in pursuance of the Provincial Cabinet Decision conveyed vide SO (C)/E&AD No: 9-41/2020, 9-46/2020 Dated: 24.08.2020 & 13.11.2020 respectively and ESED letter No: SOG/ESED/1-63/2021 Dated: 03.02.202, replacing officers of this Directorate completing two & more than two years tenure and Transfer Policy. Annexure: "B"
3. That the appellant was requested by Mr. Zulfiqar Khan, (Ex-DCTE colleague/Batch fellow) for a mutual transfer, which was forwarded to the Secretary E&SE KP Peshawar vide DCTE Letter No: 1438 & 1440 Dated: 10.03.2021 as Principal GHS Sheikh-ul-Bandi (local station), sensing to the Cabinet Decision repercussions. Annexure: C
4. That the appellant was transferred from DCTE KP Abbottabad to GHS Nathiagali, Abbottabad as Principal BPS-19 on 23.12.2021 in result of premature transfer, against the sheer spirit of above referred Provincial Cabinet Decision, malafide and apparent victimization.
5. That the impugned order is arbitrary based on malafide facts and

Allyed

*Attested
to be true
copy*

20

That the appellant is serving in BS-19 and is Senior and placed at Serial No: 44 compare to Mr. Zulfiqar, at S#: 89 in the Final Seniority List of BP 19 (Teaching Cadre Officers) in ESED KP.

7.

That the impugned order is against the Transfer/Posting Policy & Rules in the field, as it is settled principle of law that in a case where statute provides a procedure for doing of a thing in a particular manner, that thing should be done in that manner and not otherwise or it should not be done at all; Furthermore, all government servants are prohibited to exert political, administrative or any other pressures upon the posting/transfer authorities for seeking posting/transfers of their choice and against the public interest.

8.

That the said departmental appeal is made within the time.

In the light of above facts, On the acceptance of instant departmental it, therefore, requested that the impugned order No: SO(SM)E&SED/7-1 / 2021 / PT / MC / DCTE Dated: 23.12.2021, passed by the competent authority (against the Provincial cabinet decision) may kindly be set aside and the appellant may be allowed to continue his services as Additional Director Curriculum & Textbooks Review at Directorate of Curriculum and Teacher Education (DCTE) KP Abbottabad.

Suspension

It is further prayed that, in the meanwhile impugned order may kindly be set aside till the final decision of captioned appeal.

Dated: 24/12/2021

Yours Sincerely

SYED AMJAD ALI
Additional Director (CTR)
DCTE KP Abbottabad

VERIFICATION:-

Verified, that the contents of instant appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein.

Dated: 24/12/2021

SYED AMJAD ALI
Additional Director (CTR)
DCTE KP Abbottabad

Copy for information & necessary action to:

1. The Secretary to Government of KP, Elementary & Secondary Education Department, Peshawar.
2. The Principal Secretary to the Chief Minister, Khyber Pakhtunkhwa

- 13 - Annexure "D"

BEFORE THE SERVICES TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. 24 / 2022

Syed Amjad Ali, (BS-19) Additional Director (CTR) DCTE Khyber Pakhtunkhwa
Abbottabad. Service Tribunal

Diary No. 23

Appellant Dated 10-01-2022

Versus

- 1- Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- Secretary to Government Khyber Pakhtunkhwa, Elementary and Secondary Education Department, Khyber Pakhtunkhwa Peshawar.
- 3- Deputy Secretary Admin, Khyber Pakhtunkhwa, Peshawar.
- 4- Director, Elementary and Secondary Education Department, Khyber Pakhtunkhwa Peshawar.
- 5- Mr Zulfiqar Khan TC (BS-19) Principal GHS Sheikhu bandi District Abbottabad.

.....Respondents

Filed to-day

10/1/2022
Registrar

SERVICE APPEAL UNDER SECTION-4 OF KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL ACT, 1973
AGAINST THE IMPUGNED NOTIFICATION
ISSUED BY RESPONDENT NO-2 BEARING
NUMBER NO.SO(SM)E&SED/7-
1/2021/PT/MC/DCTE DATED 23-12-
2021, WHEREIN THE APPELLANT GOT
TRANSFERRED, IN BLATANT VIOLATION OF
LAW, RULES, AND POLICY OF THE
DEPARTMENT AND THE APPEAL OF THE

Attended to be
true copy
of

-14-

APPELLANT DATED. 24-12-2021, WHICH IS
UNDECIDED BY RESPONDENT NUMBER-1,
SLVERLY AFFECTING THE RIGHTS OF
APPELLANT.

PRAYER: ON ACCEPTANCE OF THE INSTANT
SERVICE APPEAL, THE IMPUGNED
NOTIFICATION ISSUED BY RESPONDENT NO-2
BLARING NUMBER NO:SO(SM)E&SED/7-
1/2021/PT/MC/DCTE DATED 23-12-2021,
WHEREIN THE APPELLANT GOT TRANSFERRED,
IN BLATANT VIOLATION OF LAW, RULES, AND
POLICY OF THE DEPARTMENT, MAY KINDLY BE
SET ASIDE, AND THE APPELLANT MAY KINDLY BE
ALLOWED TO CONTINUE HIS SERVICE AS PER THE
POSITION PRIOR TO THE IMPUGNED
NOTIFICATION.

Respectfully Sheweth,

The Appellant very humbly submits as under:

1. That the appellant is serving as Additional Director BPS-(19) Curriculum & Textbooks Review at Directorate of Curriculum & Teacher Education (DCTE) KP, Abbottabad since 21.06.2021 and performing duties with sincerity and devotion to the entire satisfaction of his superior.
2. That the appellant was recently posted at this Directorate vide E&SED Notification No: SO(SM)/ESED/7-1/2021/Posting/Transfer/General/ Dated: 04.06.2021 in pursuance of the Provincial Cabinet Decision conveyed vide SO (C)/E&AD No: 9-41/2020, 9-46/2020 Dated: 24.08.2020 & 13.11.2020 respectively and

ESED letter No: SOG/ESED/1-63/2021 Dated: 03.02.2021, replacing officers of this Directorate completing two & more than two years tenure and Transfer Policy. **(Copy of the Minutes of the meeting circulated and Transfer policy as Annexure: "A")**

3. That the appellant was requested by Mr. Zulfiqar Khan, (Ex-DCTE colleague/ Batch fellow) (Respondent no-5) for a mutual transfer, which was forwarded to the Secretary E&SE KP Peshawar vide DCTE Letter No: 1438 & 1440 Dated: 10.03.2021 as Principal GHS Sheikh-ul-Bandi (local station), it later dawned upon the Appellant that the move was made sensing the Cabinet Decision's repercussions. **(Copy of the orders attached as annexure "B")**
4. That a notification NO.SO(SM)E&SED/7-1/2021/PT/MC/DCTE dated 23-12-2021 was issued in blatant violation of law, policy and rules of the department, by respondent no 2, through which the appellant is transferred from the post, held for only few months and respondent no-5, who has been serving on the same post since 2014, is once again posted to his previous position through impugned notification *ibid*. **(Copy of the impugned Notification dated 23-12-2021 is attached as annexure "C")**
5. That the appellant is transferred from DCTE KP Abbottabad to GHS Nathiagali Abbottabad, through impugned notification, as Principal BPS-19 on 23.12.2021 in result of premature transfer, against the sheer spirit of law and above referred Provincial Cabinet Decision, malafide and apparent victimization.
6. That the Appellant preferred a departmental appeal on 24-12-2021 before the Chief Secretary Khyber Pakhtunkhwa (Respondent no-1) which still stands undecided after the lapse of more than 15 days. **(Copy of departmental Appeal attached as annexure "D")**
7. That feeling aggrieved, the Appellant has approached the August Tribunal on the following *inter Alia* amongst many other:

GROUNDS

- a. That the impugned order is arbitrary based on malafide against the law, just to extend unwarranted and unlawful relief of posting of

choice to blue eyed one, Mr. Zulfiqar (Respondent no-5), who remained in this Directorate since long in BS-18, since 2014 and occupied the same station after being promoted to BS-19, who eventually got transferred by virtue of Provincial Cabinet decision recently in June 2021 and completing outstanding tenure at DCTE.

- b. That the malafide intentions are apparent when respondent no-5, by breaking his tenure in June 2021 through a mutual transfer with the appellant; was successful in getting his proposal through ESED for DCTE and finally this order has established that malafide intentions do have legs to stand.
- c. That the appellant is serving in BS-19 and is Senior and placed at Serial No: 44 as compared to Respondent no-5, who is at Serial No: 89 in the Final Seniority List of BS-19 (Teaching Cadre Officers) in ESED KP.
- d. That the impugned order is against the Transfer/Posting Policy & Rules in the field, as it is settled principle of law that in a case where law provides a procedure for doing a thing in a particular manner, that thing should be done in that manner and not otherwise.
- e. That all government servants are prohibited to exert political, administrative or any other pressures upon the posting/transfer authorities for seeking posting/transfers of their choice and against the public interest. All such prohibitions seem floating on the surface and unduly advancing favor to respondent no-5.
- f. That the act of respondents falls within the definition of colorable exercise of power on part of respondents which is nether permissible nor warranted in the eyes of law.
- g. That the act of respondents squarely falls within the definition of exploitation as defined in the constitution of Islamic Republic of Pakistan.
- h. That the act of respondents is not only against the norms of justice but also discriminatory, against the law and un-warranted.
- i. That the appeal is well within time.

- j. That the other grounds will be urged at the time of arguments.

IT IS THEREFORE, VERY RESPECTFULLY PRAYED THAT ON ACCEPTANCE OF THE INSTANT SERVICE APPEAL, THE IMPUGNED NOTIFICATION ISSUED BY RESPONDENT NO-2 BEARING NUMBER NO.SO(SM)E&SED/7-1/2021/PT/MC/DCTE DATED 23 12-2021, WHEREIN THE APPELLANT GOT TRANSFERRED, IN BLATANT VIOLATION OF LAW, RULES, AND POLICY OF THE DEPARTMENT, MAY KINDLY BE SET ASIDE AND THE APPELLANT MAY KINDLY BE ALLOWED TO CONTINUE HIS SERVICE AS PER THE POSITION PRIOR TO THE IMPUGNED NOTIFICATION.

Through:

APPELLANT

Dated: 10-01-2022

(Abdul Aziz Tanoli)
Advocate High Court
Abbottabad.

(Adeel Ahmed Nazir)
Advocate High Court
Abbottabad.

VERIFICATION:

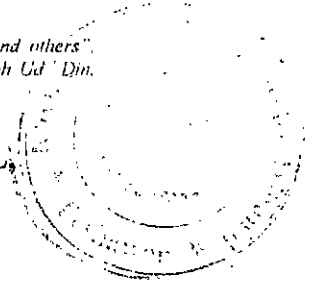
Verified on oath that the contents of foregoing Appeal are true and correct to the best of my knowledge and belief and nothing has been mis-stated or concealed from this Honourable Court.

Dated: 10-01-2022

Appellant

- 18 -

Service Appeal No.24/2022 titled "Syed Anjad Ali-vs-Chief Secretary, Khyber Pakhtunkhwa and others" decided on 21.07.2022 by Division Bench comprising Kalim Arshad Khan, Chairman, and Salah Ud Din, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Camp Court Abbottabad



**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

BEFORE: **KALIM ARSHAD KHAN ... CHAIRMAN**
SALAH UD DIN ... MEMBER (JUDICIAL)

Service Appeal No.24/2022

Syed Anjad Ali, (BS-19) Additional Director (CTR) DCTE, Khyber Pakhtunkhwa, Abbottabad.

.....(*Appellant*)

Versus

1. **Chief Secretary, Khyber Pakhtunkhwa, Peshawar.**
2. **Secretary to Government Khyber Pakhtunkhwa, Elementary and Secondary Education Department, Khyber Pakhtunkhwa Peshawar.**
3. **Deputy Secretary Admin, Khyber Pakhtunkhwa, Peshawar.**
4. **Director, Elementary and Secondary Education Department, Khyber Pakhtunkhwa Peshawar.**
5. **Mr. Zulfiqar Khan, TC(BS-19) Principal GHS Sheikhul Bandi, District Abbottabad.**

.....(*Respondents*)

Present:

Mr. Abdul Aziz Tanoli,
Advocate.....For appellant.

Kabirullah Khattak,
Additional Advocate GeneralFor official respondents.

Mr. Arshad Khan Tanoli,
Advocate.....For private respondent No.5

Date of Institution.....10.01.2022

Dates of Hearing.....21.07.2022

Date of Decision.....21.07.2022

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION ISSUED BY RESPONDENT NO.2 BEARING NUMBER NO.SO(SM)E&SED/7-1/2021/PT/MC/DCTE DATED 23.12.2021, WHEREIN THE APPELLANT GOT TRANSFERRED, IN BLATANT VIOLATION OF LAW, RULES, AND POLICY OF THE DEPARTMENT AND THE APPEAL OF THE APPELLANT

-19-

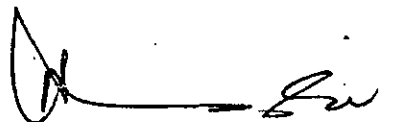
Service Appeal No 24-2021 titled "Syed Anjad Ali-vs-Chief Secretary, Khyber Pakhtunkhwa and others",
decided on 21.01.2022 by Division Bench comprising Kalim Arshad Khan, Chairman, and Salah Ud Din,
Member-Judicial, Khyber Pakhtunkhwa Service Tribunal, Camp Court Abbottabad.

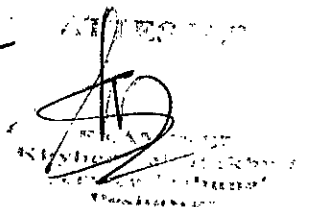
DATED 24.12.2021, WHICH IS UNDECIDED BY RESPONDENT NUMBER-1, SEVERLY AFFECTING THE RIGHTS OF APPELLANT.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: The facts surrounding the appeal are that the appellant was serving as Additional Director (BS-19) Curriculum & Textbooks Review at Directorate of Curriculum & Teacher Education (DCTE), Khyber Pakhtunkhwa Abbottabad since 21.06.2021; that the appellant was requested by private respondent No.5 for a mutual transfer which was duly allowed by the competent authority vide notification No. SO(SM)E&SED/7-1/Posting/Transfer/General dated 04.06.2021; that vide impugned transfer order on 23.12.2021, the appellant was transferred from the post of Additional Director(Curriculum & Textbook) DCTE, Abbottabad to the post of Principal (BS-19) GHS Natihia Gali, District Abbottabad against which he filed departmental representation on 24.12.2021 which was not responded, compelling the appellant to file this appeal on 10.01.2022.

2. On receipt of the appeal and its admission to full hearing, the respondents were summoned, who, on putting appearance, contested the appeal by filing written reply raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellant.


21.07.22


Khyber Pakhtunkhwa Service Tribunal
Camp Court Abbottabad

Service Journal No. 14/2022 titled "Syed Anjad Ali-vs-Chief Secretary, Khyber Pakhtunkhwa and others", decided on 21.07.2022 by Division Bench comprising Kalim Arshad Khan, Chairman and Salah Ud Din, Member Judicial, Khyber Pakhtunkhwa Service Tribunal, Camp Court Abbottabad.

3. We have heard learned counsel for the appellant and learned Additional Advocate General for the respondents.
4. The learned counsel for the appellant reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned AAG controverted the same by supporting the impugned order.
5. There is no denial of the fact that the appellant and private respondent No.5 had made a request in writing for their mutual transfer and vide notification No. SO(SM)E&SED/7-1/Posting/Transfer/General dated 04.06.2021 they were mutually transferred, posting the appellant as Additional Director(Curriculum & Textbook) DCTE, Abbottabad and private respondent No.5 was transferred from the post of Additional Director(Curriculum & Textbook) DCTE, Abbottabad against the previous posting of the appellant as principal, GHS Sheikhu Bandi, Abbottabad. Just eight months thereafter, without allowing the appellant to complete his normal tenure and in violation of the transfer policy of the Government, the appellant was transferred from the post of Additional Director(Curriculum & Textbook) DCTE, Abbottabad to the post of Principal, GHS Natia Gali, District Abbottabad and private respondent No.5 was again posted as Additional Director(Curriculum & Textbook) DCTE, Abbottabad. In the parawise comments the respondents have mainly and strangely contended that mutual transfer was in fact not a mutual transfer because the posting/transfer of private

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21/7/22

APPROVED
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CHIEF JUSTICE
KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
CAMP COURT ABBOTTABAD

Service Appeal No 24/2022 titled "Syed Amjad Ali-vs-Chief Secretary, Khyber Pakhtunkhwa and others", decided on 21/07/2022 by Division Bench comprising Kalim Arshad Khan, Chairman, and Salah Ud Din, Member, Federal Khyber Pakhtunkhwa Service Tribunal, Camp Court Abbottabad.

respondent No.5 as Additional Director(Curriculum & Textbook) DCTE, . Abbottabad was issued vide notification No. SO(S/M)/E&SED/2-1/2016/Placement Committee for DCTE & PITE dated 1.11.2017 on the basis of recommendations of placement committee, keeping in view the expertise of the officer who have received following foreign trainings in the field of Education:

Subject Area	Organization	institution
Design and development of curriculum-based Assessment/Examination	Education Testing Service USE	Education testing Service Global Institute New Jersey USA
Item/Question writing for large scale educational testing/assessment & Examination	Australian Council for Educational Research (ACER)	Australian Council for Education Research International Institute Melbourne Australia
Observational study to early grade reading and curriculum assessment	EGRP (USAID)	Academy for professional development Cairo - Egypt
Multi-lingual Education design of curriculum	Forum for Language Initiatives (FLI) UNESCO	Ministry of Education Bangkok Thailand
Quality Assurance Mechanism in Schools	South Asia Regional Conference	British Council Kathmandu Nepal

6. Keeping in view the expertise of the officer i.e, private respondent No.5 and needs of organization, he was posted as Additional Director(Curriculum & Textbook) DCTE, Abbottabad.

7. The foreign trainings of private respondent No.5 enumerated above were already there when the appellatant and private respondent No.5 were mutually transferred so in case the private respondent No.5 was to be retained as Additional Director(Curriculum & Textbook) DCTE, Abbottabad for all time to come, in view of the department, then why the mutual transferred was ordered, is a question which is nowhere explained or answered in the reply.

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21.07.22

Service Appeal No 147022 filed "Syed Anjum Ali-vs-Chief Secretary, Khyber Pakhtunkhwa and others", decided on 21.07.2022 by Division Bench comprising Kalim Arshad Khan, Chairman, and Salah Ud Din, Member (Judicial), Khyber Pakhtunkhwa Service Tribunal, Camp Court Abbottabad.

8. The upshot of the above discussion is that the impugned transfer order was a premature transfer order whereby the appellant has not complete his normal tenure, thus there was no justification for premature transfer of the appellant, therefore, on acceptance of this appeal the impugned transfer order dated 23.12.2021 is set aside with the direction to the respondents to allow the appellant to complete his normal tenure. Costs shall follow the event. Consign.

9. *Pronounced in open Court at Abbottabad and given under our hands and the seal of the Tribunal on this 21st day of July, 2022.*



KALIM ARSHAD KHAN
Chairman
Camp court Abbottabad

SALAH UD DIN
Member (Judicial)
Camp court Abbottabad

Certified to be true copy

Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 14-2-23
Number of Page 5
Copying Fee 28/-
Urgent 5/-
Total 30/-
Date of 14-2-23
Date of Delivery of Copy 14-2-23



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated: 10th February, 2023

NOTIFICATION

NO.SO(MC)E&SED/4-16/2022/Posting/Transfer/MC/: Consequent upon the approval of the Competent Authority and subsequent NOC from the Election Commission of Pakistan, the following posting/ transfer are hereby ordered with immediate effect, in the best public interest: -

S #	Name & Designation	From	To	Remarks
1.	Mr. Zahid Muhammad (MC BS-19)	DEO (Male) Bannu	DEO (Male) Mardan	A.V.P
2.	Mr. Jaffar Mansoor Abbasi (MC BS 19)	Awaiting Posting	Additional Director, Directorate (DCTE) Abbottabad.	V.S.No.3
3.	Syed Amjad Ali (TC BS-19)	Additional Director DCTE Abbottabad.	Principal (BS-19) GHSS Salabat Mansehra	A.V.P
4.	Mr. Aurangzeb (MC BS-18)	DEO (Male) Karak	DEO (Male) Lower Kohistan	Vice S.No.5
5.	Mr. Zahoor Khan (MC BS 19)	DEO (Male) Lower Kohistan	DEO (Male) Karak	Vice S.No.4
6.	Mr. Liaqat Ali (MC BS-18)	Deputy DEO Dir Lower	DEO Mohmand in OPS	By relieving Abdul Manan, Deputy Director, Directorate of E&SE. of the Additional Charge.

SECRETARY TO GOVT: OF KHYBER PAKHTUNKHWA
E&SE DEPARTMENT

Endst: of even No.& date:

Copy forwarded for information to the: -

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
3. Director EMIS, E&SE Department with the request to upload the same on the official website of the department
4. Section Officer (Schools Male) E&SE Department.
5. District Education Officer (Male) Concerned
6. District Accounts Officer Concerned.
7. PS to Minister E&SE Khyber Pakhtunkhwa
8. PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
9. Master file.

*Attended
to be
copy*

Naseer
60123
(NASEER ABBAS KHALIL)
SECTION OFFICER (Management Cadre)

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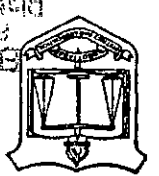
Name of Advocate			
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BC No.			
Name of Dist.			

S.No 1868

-24-

Fee Rs.

Rs 250



BIRI SALMA
District Secretary
District Bar Association
Approved