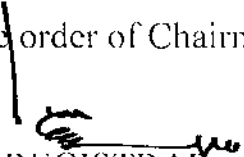


FORM OF ORDER SHEET

Court of _____

Case No.- 319/2023

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|---|
| 1 | 2 | 3 |
| 1- | 13/02/2023 | <p>The appeal of Mr. Arshad Anwar presented today by Mr. Amjad Ali Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on <u>15-2-23</u>. Parcha Peshi is given to appellant/counsel for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR,</p> |

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 319 /2023

Arshad Anwar (ADEO Primary DEO(F) Office Mardan) S/O Raham
Bahadar R/O Ako Dheri Post Office Lund Khwar Tehsil Takht Bhai District
Mardan

.....(Appellant)

VERSUS

Govt. of KPK through Secretary Elementary and Secondary
Education Civil Secretariate Peshawar and others

..... (Respondents)

INDEX

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| 3 | Copy of the CNIC of appellant | A | 9 |
| 4 | Copy of the CNIC & monthly salary statement of wife of appellant | B | 10 |
| 5 | Copy of the order dated 28/12/2020 | C | 11-12 |
| 6 | Copy of the office order dated 04/01/2023 | D | 13 |
| 7 | Copy of the departmental appeal dated 04/01/2023 | E | 14 |
| 8 | Copy of the notification dated 17/01/2023 | F | 15 |
| 9 | Copy of the rejection order dated 08/02/2023 | G | 16 |
| 10 | Copy of the transfer policy | H | 17-20 |
| 11 | Copy of the service appeal along with judgment/order dated 27/01/2023 | I | 21-23 |

| | | | |
|----|-------------|--|----|
| 12 | Wakalatnama | | 24 |
|----|-------------|--|----|

Through

Appellant

Amjad Ali (Mardan)
Advocate
Supreme Court of Pakistan

Dated: 13/02/2023

Amjad Ali
ADVOCATE
SUPREME COURT

①

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 319 /2023

Arshad Anwar (ADEO Primary DEO(F) Office Mardan), S/O Raham Bahadar R/O Ako Dheri Post Office Lund Khwar Tehsil Takht Bhai District Mardan

.....(Appellant)

VERSUS

1. Govt of KPK through Secretary Elementary and Secondary Education Civil Secretariate Peshawar.
2. Secretary Elementary and Secondary Education Civil Secretariate Peshawar.
3. Director of Elementary & Secondary Education KP at Directorate of E&SED Hashtangari Chowk, Near Qila Bala Hisar Peshawar.
4. Assistant Director (EstabM-I), Elementary and Secondary Education Khyber Pakhtunkhwa
5. District Education Officer (female) Mardan
6. Muhammad Sulaiman (SST (G)) presently posted at GHSS Sawaryan Mardan

.....(Respondents)

SUBJECT: Appeal under Section 4 of Service Tribunal Act, against the office order bearing Endst No 37-41 dated 04/01/2023 passed by respondent no 5 wherein the services of the appellant are placed at the disposal of Directorate of Elementary & Secondary Education on administrative ground and notification bearing Endst No 8759-68 dated 17/01/2023 passed by respondent 3 wherein respondent no 6 is posted in place of the appellant as ADEO Primary DEO (F) Office Mardan which orders/notifications are illegal, pre-mature and against the wedlock transfer policy and the rejection order no 7604/F.No14/ADEOs(M)TransferMardan dated 08/02/2023 passed by the respondent no 4 on the departmental appeal of the appellant are illegal against law and facts without lawful authority, void ab initio and liable to be set aside.

Respected Sir,

Appellant humbly submits as under:

1. That appellant is a permanent resident of District Mardan (Copy of the CNIC of appellant is attached as Annexure A)

2. That wife of appellant namely Sidra Qamar is posted as Secondary School Teacher (BPS-16) and is currently performing duty at GGHS Lund Khwar Mardan as evident from monthly salary statement **(Copy of the CNIC & monthly salary statement of wife of appellant is attached as Annexure B)**
3. That appellant performed duties to the entire satisfaction of his superiors and there is no complaint against the appellant.
4. That appellant is adjusted as ADEO(Establishment) at the office of DEO(F) Mardan vide order dated 28/12/2020 **(Copy of the order dated 28/12/2020 is attached as Annexure C)**
5. That the services of the appellant are placed at the disposal of the Directorate of Elementary & Secondary Education on administrative grounds vide office order Endst No 37-41 dated 04/01/2023 which is illegal against law and facts **(Copy of the office order dated 04/01/2023 is attached as Annexure D)**
6. That feeling aggrieved from the transfer order dated 04/01/2023, appellant preferred departmental appeal dated 04/01/2023 which is received on 04/01/2023 vide Endst No 1917 **(Copy of the departmental appeal dated 04/01/2023 is attached as Annexure E)**
7. That vide notification bearing Endst No 8759-68 dated 17/01/2023, Muhammad Sulaiman SST(G) (respondent no 6) is posted as ADEO Primary at DEO(F) Office Mardan which is illegal against law and facts **(Copy of the notification dated 17/01/2023 is attached as Annexure F)**
8. That respondent 4 vide order no 7604/F.No14/ADEOs(M)TransferMardan dated 08/02/2023 has rejected the Departmental appeal of the appellant which is illegal against law and facts **(Copy of the rejection order dated 08/02/2023 is attached as Annexure G)**
9. That office order Endst No 37-41 dated 04/01/2023 passed by respondent no 5, notification bearing Endst No 8759-68 dated 17/01/2023 to the extent of respondent no 6 and rejection order no 7604/F.No14/ADEOs(M)TransferMardan dated 08/02/2023 are illegal against law and facts on the following grounds:

GROUND

- A. Because appellant has performed duties to the entire satisfaction of his superiors and there is no complaint against the appellant.
- B. Because the impugned transfer is in contravention of the transfer policy of the Provincial Government wherein it is

specifically provided that posting/transfer shall not be mis-used/abused to victimize a civil servant. The relevant clause is reproduced as under: (Copy of the transfer policy is attached as Annexure H)

“i). All the posting/transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants.”

C. Because there is no provision for transfer on administrative grounds and it is specifically prohibited in the posting/transfer policy.

D. Because the appellant has not completed his tenure at his existing station and therefore the impugned transfer being premature is illegal and against the transfer policy. The relevant clause is reproduced as under:

“iv). Existing tenure of posting/transfer of three (03) years for settled areas and two (02) years for unattractive/hard areas shall be reduced to two (02) years for settled areas, 01½ years for unattractive areas and one year for hard areas.”

E. Because while making transfer orders, the authority has to look into the following factors:

“ xiii) While considering posting/transfer proposals all the concerned authorities shall keep in mind the following:

a) To ensure the posting of proper persons on proper posts, the Performance Evaluation Report/annual confidential reports, past and present record of service, performance on post held presently and in the past and general reputation with focus on the integrity of the concerned officers/ officials be considered.

b) Tenure on present post shall also be taken into consideration and the posting/transfers shall be in the best public interest.”

In the instant case, the performance of the appellant has been satisfactory and the tenure of the appellant is not complete at his existing station and therefore the impugned transfer is in contravention of the clear policy of transfer of KP Government.

F. Because impugned transfer orders are the result of political pressure which has been consistently deprecated by this Honorable Tribunal as well as the Honorable Supreme Court of Pakistan.

G. Because the wife of the appellant is performing duty for the last 08 years in the Education Department and is currently posted as Secondary School Teacher (BPS-16) in the GGHS Lund Khwar Mardan and therefore the impugned transfer/disposal of services is illegal and in contravention of the wedlock transfer policy of the Provincial Government. The relevant Para of the transfer policy is reproduced as under:

“ix) Regarding the posting of husband/wife, both in Provincial services, efforts where possible would be made to post such persons at one station subject to the public interest.”

H. Because the impugned transfer is in contravention of Article 35 of the Constitution of Pakistan 1973 which guarantees protection of marriage and family. Article 35 of the Constitution of Pakistan 1973 is reproduced as under:

“Protection of family, etc.

35. The State shall protect the marriage, the family, the mother and the child.”

I. Because appellant is made a rolling stone at the hands of the respondents due to transfer outside District without any plausible reason just to please their political masters and pressurize the appellant.

J. Because the appellant is regularly performing duty to the entire satisfaction of his superiors.

K. Because impugned orders are the result of malice and are totally a void order.

L. Because void order has got no legal status and can't be implemented/obeyed.

M. Because impugned orders are without lawful authority.

N. Because the Departmental Appeal as well as the service appeal are within time.

O. Because giving effect to impugned void orders means down-throdding the whole transfer policy.

- 5
- P. Because the appointment of the appellant is on divisional basis and appellant cannot be transferred outside the division.
- Q. Because appellant is a low-paid employee and transferring appellant to Peshawar from District Mardan and thereafter further posting by Directorate is clear-cut victimization of the appellant.
- R. Because the respondents have got no authority to transfer out the appellant outside District Mardan without the express permission of the Chief Secretary of the Province of KP as enshrined the transfer/posting policy.
- S. Because as per the transfer policy, the authority competent to transfer out officials in BPS-16 and below is the Executive District Officer in consultation with the District Coordination Officer. The instant transfer order/disposal of services order is a void order being passed by incompetent authority.
- T. Because the appellant being appointed in Divisional cadre can at most be transferred within the Division (i.e Mardan Division) and the Director is not the competent authority of the appellant and therefore placing the services of the appellant at the disposal of the Directorate is a void order being without lawful authority and untenable in the eye of law.
- U. Because in another identical service appeal no 214/2023, this Honorable Tribunal has suspended the operation of the impugned transfer order vide order/judgment dated 27/01/2023 (Copy of the service appeal along with judgment/order dated 27/01/2023 is attached as Annexure I)
- V. Because the family life of the appellant is likely to get disturbed as a result of the impugned order which is violative of the fundamental right enshrined in Article 35 of the Constitution of Pakistan 1973.

PRAYER:

It is therefore humbly prayed that on acceptance of this service appeal, office order bearing Endst No 37-41 dated 04/01/2023 passed by respondent no 5 wherein the services of the appellant are placed at the disposal of Directorate of Elementary & Secondary Education on administrative ground and notification bearing Endst No 8759-68 dated 17/01/2023 passed by respondent 3 wherein respondent no 6 is posted in place of the appellant as ADEO Primary DEO (F) Office Mardan which

orders/notifications are illegal, pre-mature and against the wedlock transfer policy and the rejection order no 7604/F.No14/ADEOs(M)TransferMardan dated 08/02/2023 passed by the respondent no 4 on the departmental appeal of the appellant may please be set aside and appellant may please be permitted to perform his duty as ADEO in the office of DEO(F) Mardan as per transfer policy of the KP Government. Any other relief deemed fit may also be graciously granted.

6

Through Appellant

Amjad Ali (Mardan)
Advocate
Supreme Court of Pakistan

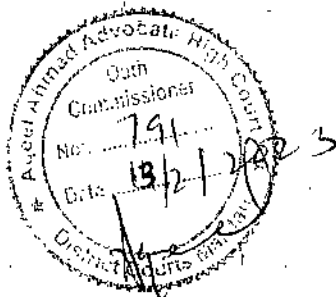
Amjad Ali
Advocate
SUPREME COURT

Dated: 13/02/2023

AFFIDAVIT

I, Arshad Anwar (ADEO Primary DEO(F) Office Mardan) S/O Raham Bahadar R/O Ako Dheri Post Office Lund Khwar Tehsil Takht Bhai District Mardan (appellant) do hereby solemnly affirm and declare that all the contents of this Service Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Tribunal.

Deponent



(7)

**BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR**

CM No. _____/2023

IN

Service Appeal No. _____/2023

Arshad Anwar (ADEO Primary DEO(F) Office Mardan) S/O Raham Bahadar R/O Ako Dheri Post Office Lund Khwar Tehsil Takht Bhai District Mardan

.....(Appellant/Applicant)

VERSUS

Govt of KPK through Secretary Elementary and Secondary Education Civil Secretariate Peshawar and others

..... (Respondents)

Subject: Application for suspension of operation of impugned office order Endst No 37-41 dated 04/01/2023 passed by respondent no 5, notification bearing Endst No 8759-68 dated 17/01/2023 to the extent of respondent no 6 and rejection order no 7604/F.No14/ADEOs(M) Transfer Mardan dated 08/02/2023 till decision of the instant service appeal.

Respected Sir,

Applicant humbly submits as under:

1. That the aforementioned appeal has been filed today.
 2. That the impugned transfer of the appellant/applicant is an illegal order, in violation of the transfer/posting policy being pre-mature as well as in contravention of the wedlock policy which infringes Article 35 of the Constitution of Pakistan 1973 and therefore the impugned transfer is an illegal order and not tenable in the eye of law.
 3. That appellant/applicant has a strong prima facie case and is sanguine about its success.
 4. That balance of convenience lies in favour of the appellant/applicant.
 5. That there shall be irreparable loss to the appellant/applicant if the impugned orders are not suspended.
 6. That contents of the service appeal may please be treated as integral part of this application.
-

(8)

It is therefore humbly requested that the operation of impugned office order Endst No 37-41 dated 04/01/2023 passed by respondent no 5, notification bearing Endst No 8759-68 dated 17/01/2023 to the extent of respondent no 6 and rejection order no 7604/F.No14/ADEOs(M) Transfer Mardan dated 08/02/2023 may please be suspended till decision of the instant service appeal.

Through Applicant

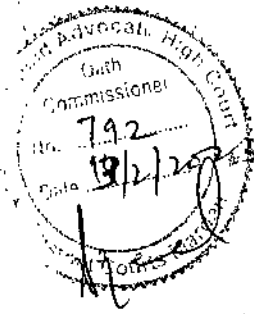
Amjad Ali (Mardan)
Advocate
Supreme Court of Pakistan

Dated: 19/02/2023

AFFIDAVIT

I, Arshad Anwar (ADEO Primary DEO(F) Office Mardan) S/O Raham Bahadar R/O Ako Dheri Post Office Lund Khwar Tehsil Takht Bhai District Mardan (appellant/applicant) do hereby solemnly affirm and declare that all the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Tribunal.

Deponent





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رہنما کارڈ

حکومت پاکستان

ملی شناختی کارڈ
16102-5403272-9



تاریخ: 15/03/1982

عبدالغنیہ
رہنما کارڈ

9

Ann A



شناختی نمبر: 16102-5403272-9

ذاتی نمبر: T2Q1B8

12882733-484-4

تاریخ: 23/06/2021

23/06/2031

مشورہ کارڈ کے لیے پرقریبی کیمز میں داخل ہوں



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21

21

10

Annex B



پاکستان
 16102-6144383-2
 استیوار اجور
 04/08/1990

Handwritten signature

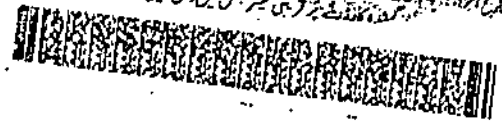
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T2Q1B8
 16102-6145383-2

پاکستان
 10/10/2024
 10/10/2014



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 Handwritten initials

SECRET

Dist. Govt. NWFP-Provincial
District Accounts Office Mardan
Monthly Salary Statement (May-2022)



11

Personal Information of Miss SIDRA QAMAR d/w/s of SYED QAMAR

Personnel Number: 00729248 CNIC: 1610281453832
Date of Birth: 04.08.1990 Entry into Govt. Service: 10.07.2014

NTN:
Length of Service: 07 Years 10 Months 023 Days

Employment Category: Active Temporary

Designation: SECONDARY SCHOOL TEACHER

80003523-DISTRICT GOVERNMENT KHYBE

DDO Code: MR6130-H.MRS G.G.H.S LUND KHWAR MARDAN

Payroll Section: 003

GPF Section: 001

Cash Center:

GPF A/C No:

Interest Applied: Yes

GPF Balance:

82,051.00

Vendor Number: -

Pay and Allowances:

Pay scale: BPS For - 2017

Pay Scale Type: Civil BPS: 16

Pay Stage: 6

| Wage type | | Amount | Wage type | | Amount |
|-----------|---------------------------|-----------|-----------|---------------------------|----------|
| 0001 | Basic Pay | 28,030.00 | 1001 | House Rent Allowance 45% | 4,091.00 |
| 1210 | Convey Allowance 2005 | 5,000.00 | 1974 | Medical Allowance 2011 | 1,500.00 |
| 2148 | 15% Adhoc Relief All-2013 | 425.00 | 2199 | Adhoc Relief Allow @ 10% | 297.00 |
| 2211 | Adhoc Relief All 2016 10% | 1,575.00 | 2224 | Adhoc Relief All 2017 10% | 2,803.00 |
| 2247 | Adhoc Relief All 2018 10% | 2,803.00 | 2264 | Adhoc Relief All 2019 10% | 2,803.00 |
| 2309 | Adhoc Relief All 2021 10% | 2,803.00 | 2316 | Teaching Allowance 2021 | 3,782.00 |
| 2341 | Dispr. Red All 15% 2022KP | 4,204.00 | | | 0.00 |

Deductions - General

| Wage type | | Amount | Wage type | | Amount |
|-----------|------------------|-----------|-----------|-------------------|-----------|
| 3016 | GPF Subscription | -3,340.00 | 3501 | Benevolent Fund | -1,500.00 |
| 3609 | Income Tax | -267.00 | 3990 | Emp.Edu. Fund KPK | -150.00 |

Deductions - Loans and Advances

| Loan | Description | Principal amount | Deduction | Balance |
|------|-------------|------------------|-----------|---------|
| | | | | |

Deductions - Income Tax

Payable: 4,929.68 Recovered till May-2022: 3,431.00 Exempted: 1232.02 Recoverable: 266.66

Gross Pay (Rs.): 60,116.00

Deductions: (Rs.): -5,257.00

Net Pay: (Rs.): 54,859.00

Payee Name: SIDRA QAMAR

Account Number: 110033450

Bank Details: ALLIED BANK LIMITED, 250374 SHER GARH SHER GARH,

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address:

City: MARDAN

Temp. Address:

City:

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Email:

SUPPLEMENT

1) 30696/06.06.2022/11:52:15) 2) All amounts are in Pak Rupees 3) Errors & omissions excepted

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

OFFICE ORDER

The Competent Authority is pleased to adjust Mr. Arshad Arwar SST(B/C) GHS Lundkhar No.2 District Mardan as ADEO (Establishment) at office the DEO(F) Mardan, with immediate effect in the best interest of public service

TERMS AND CONDITIONS


1. Posting/Adjustment of Teaching Cadre Officers shall be considered as stop-gap arrangement till the arrival of Management Cadre officers.
2. The order of the above named SST (teaching cadre) will be effective subject to the condition that he will give an undertaking/affidavit on legal paper/stamp paper to DEO (M/F) District Mardan to the effect, not to claim seniority of Management cadre.
3. Charge Report should be submitted to all concerned.
4. No TA/DA is allowed
5. The terms & conditions mentioned in his appointment order as SST Teaching cadre will remain intact.

DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa

Endst: No. 1988-92 F.NO. 436/Vol-1/ADEOs (M) Transfers Dated the Peshawar 28/12 2020

Copy forwarded to the:

1. District Education Officer (M/F) Mardan.
2. District Accounts Officer Mardan.
3. Officer Concerned.
4. Muster Copy.


28/12/2020
Deputy Director (Estab)
Elementary & Secondary Education
Khyber Pakhtunkhwa



OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE)

MARDAN

PHONE/FAX NO 0937-9230159

Email Address: emismardan_deofemale@yahoo.com

AD
13

OFFICE ORDER

Services of Mr. Arshid Anwar (SST) working as ADEO (Primary) this office are hereby placed on disposal of Directorate of Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar on administrative ground in the best interest of public service.

(Atiya Sultana)
District Education Officer
(Female) Mardan

Endst: No. 37-41 Dated: 04-01/2022

Copy forwarded to the:

1. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
2. Deputy Commissioner, Mardan.
3. DMO, EMA Mardan.
4. Principal concerned
5. Official concerned.

Atiya Sultana
04-01-2022
District Education Officer
(Female) Mardan

Attested
[Signature]

SUPERVISOR

14
Axc E

The Director
Directorate of Elementary & Secondary Education
Khyber Pakhtunkhwa

Subject: **REQUEST FOR CANCELLATION OF TRANSFER ORDER**

Dear Sir,

With due respect, it is state that I am performing duties as ADEO (Primary) in the office of District Education Officer (female) Mardan with the entire satisfaction of High-ups.

That the newly teaching cadre Principal Namely Ms. Attia Sultana adjusted purely on temporary basis as DEO (Female) Mardan vide letter No. 37-41 dated 04-01-2022 (Copy attached).

There is no complaint in black & white against the applicant but unfortunately, the DEO (F) Mardan directly act upon the political personnel's without prior investigation or inquiry.

That due to this act of DEO (F) Mardan, the applicant is mentally disturbed as the applicant was performing his duties honestly.

That impugned order of DEO (F) Mardan is totally against the Law, Rules & Policy and base on malafied intensions and just for the happiness of local politicians.

Keeping in view the above facts & figures being competent Authority, it is therefore humbly requested to issue direction of cancellation of above-mentioned order, please.

I hope your good honor will give proper attention in the instant case.

Thanking you in anticipation.



Mr. Arshad Anwar

Secondary School Teacher (BPS-16)





DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.

Phone: 091-9225344

Email: establishmentmale1@gmail.com

NOTIFICATION:

Aux (F) 15

The Competent Authority, (Director of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar) has been pleased to order the transfer/posting of the following officers on their own pay Scale with immediate effect, in the best interest of public service.

| S# | Name & Designation | From | To (posted as) |
|----|-----------------------------|---------------------------------------|------------------------------------|
| 1 | Mr. Fazli Wahid SST (G) | GHS Afrido Killi District Nowshera | ADEO Primary O/O DEO (M) Mardan |
| 2 | Mr. Tahir Shah ADEO (MC) | ADEO Primary O/O DEO (M) Mardan | ASDEO (M) Circle Rustam Mardan |
| 3 | Muhammd Suliman SST (G) | GHSS Swaryan Mardan | ADEO Primary O/O DEO (F) Mardan |

1. Posting/Adjustment of Teaching Cadre Officer shall be considered as stop-gap arrangement till the arrival of Management Cadre officers.
2. The order of the above mentioned Teaching cadre officer will be effective subject to the condition that they will give an undertaking/affidavit on legal paper/stamp paper to DEO (M) Batagram the effect, not to claim seniority of Management cadre.
3. Charge Report should be submitted to all concerned.
4. No TA/DA is allowed.
5. The terms & conditions mentioned in their appointment order as teaching cadre will remain intact.

DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa

Endst: No. 8759-68 F.NO. M-I/ADEOs (M) Transfer Mardan Dated 17/1/2023

Copy forwarded to the:

1. District Education Officer (M/F) Mardan.
2. DEO (M) Nowshera.
3. District Accounts Officer Mardan & Nowshera
4. Principals concerned.
5. ✓ Officers Concerned.
6. PA to Director E&SE KPK Peshawar.
7. Master Copy.

Attest

Assistant Director (Estab: M-I)
Elementary & Secondary Education
Khyber Pakhtunkhwa



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

No. 7604 /F.No. 1/ADEOs (A) Transfer Mardan

Dated Peshawar the 08-07 2023

Phone: 091-9225344

Email: establishmentmule1@gmail.com

To

✓ Mr. Arshad Anwar SST (B/C)
at the disposal of Directorate E&SE
Khyber Pakhtunkhwa, Peshawar

Amx (6)
16

Subject: - **CANCELLATION OF TRANSFER ORDER**
Memo:

Reference your application dated Nil on the subject cited above.

I am directed to refer to the subject noted above and to ask you that there is no vacant post of Assistant District Education Officer in District Mardan. Therefore, your request for transfer as ADEO in the offices of District Education Officers (M/F) Mardan is not entertainable, hence rejected at this stage due to ban on transfer by the Election Commission of Pakistan.

Assistant Director (Estab M-1)
Elementary & Secondary Education
Khyber Pakhtunkhwa

Encls: No. _____

Copy of the above is to:-

1. PA to Director (E&SE) Local Directorate.
2. Master File.

Assistant Director (Estab M-1)
Elementary & Secondary Education
Khyber Pakhtunkhwa

Posting and Transfer

Ann H
17

Statutory Provision.

Section 10 of the NWFP Civil Servants Act, 1973.

Posting and Transfer. Every civil servant shall be liable to serve anywhere within or outside the Province, in any post under the Federal Government, or any Provincial Government or Local authority, or a Corporation or body set up or established by any such Government:-

Provided that nothing contained in this section shall apply to a civil servant recruited specifically to serve in a particular area or region;

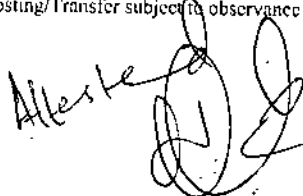
Provided further that, where a civil servant is required to serve in a post outside a service or cadre, his terms and conditions of service as to his pay shall not be less favourable than those to which he would have been entitled if he had not been so required to serve.

Posting/transfer policy of the Provincial Government.

- i) All the posting/transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants
- ii) All Government servants are prohibited to exert political, Administrative or any other pressures upon the posting/transfer authorities for seeking posing/transfers of their choice and against the public interest.
- iii) All contract Government employees appointed against specific posts, can not be posted against any other post.
- iv) Existing tenure of posting/transfer of three (03) years for settled areas and two (02) years for unattractive/hard areas shall be reduced to two (02) years for settled areas, 01½ years for unattractive areas and one year for hard areas.
- v) ⁷⁹[]

79

Para-1(v) regarding months of March and July for posting/transfer and authorities for relaxation of ban deleted vide letter No: SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-6-2008. Consequently authorities competent under the NWFP Government Rules of Business, 1985, District Government Rules of Business 2001, Posting/Transfer Policy and other rules for the time being in force, allowed to make Posting/Transfer subject to observance of the policy and rules.

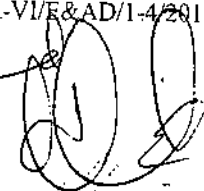
Attested


- vi) ⁸⁰While making posting/transfers of officers/officials up to BS-17 from settled areas to FATA and vice versa approval of the Chief Secretary, NWFP needs to be obtained. Save Tehsildars/Naib Tehsildars within a division in respect of whom the concerned Commissioner will exercise the same power. Whereas, in case of posting/transfer of officers in BS-18 and above, from settled areas to FATA and vice versa, specific approval of the Governor, NWFP shall be obtained.

Provided that the power to transfer Political Tehsildars and Political Naib Tehsildars within FATA between different divisions shall rest in Additional Chief Secretary FATA.

- vi (a) All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for at least eighteen months in each grade. This should start from senior most scales/grades downwards in each scale/grade of each cadre.
- vii) Officers may be posted on executive/administrative posts in the Districts of their domicile except District Coordination Officers (D.C.Os) and DPOs/Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where the Police Station (Thaana) of his area/residence is situated.
- viii) No posting/transfers of the officers/officials on detailment basis shall be made.
- ix) Regarding the posting of husband/wife, both in Provincial services, efforts where possible would be made to post such persons at one station subject to the public interest.
- x) All the posting/transferring authorities may facilitate the posting/ transfer of the unmarried female government Servants at the station of the residence of their parents.
- xi) Officers/officials except DCOs and DPOs/SPs who are due to retire within one year may be posted on their option on posts in the Districts of their domicile and be allowed to serve there till the retirement

⁸⁰ Para-VI added vide circular letter No. SOR-VI/E&AD/1-4/2010/Vol-VIII dated 20th March, 2010.

Attest 

SECRETARY

⁸¹ DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales;

- xii) In terms of Rule 17(1) and (2) read with Schedule-III of the NWFP Government Rules of Business 1985, transfer of officers shown in column 1 of the following table shall be made by the authorities shown against each officer in column 2 thereof:

| Outside the Secretariat | | |
|--------------------------------|---|--|
| 1. | Officers of the all Pakistan Unified Group i.e. DMG, PSP including Provincial Police Officers in BPS-18 and above. | Chief Secretary in consultation with Establishment Department and Department concerned with the approval of the Chief Minister. |
| 2. | Other officers in BPS-17 and above to be posted against scheduled posts, or posts normally held by the APUG, PCS(EG) and PCS(SG). | -do- |
| 3. | Heads of Attached Departments and other Officers in B-19 & above in all the Departments. | -do- |
| In the Secretariat | | |
| 1. | Secretaries | Chief Secretary with the approval of the Chief Minister. |
| 2. | Other Officers of and above the rank of Section Officers: a) Within the Same Department b) Within the Secretariat from one Department to another. | Secretary of the Department concerned. Chief secretary/Secretary Establishment |
| 3. | Officials up to the rank of Superintendent: a) Within the same Department b) To and from an Attached Department c) Within the Secretariat from one Department to another | Secretary of the Department concerned. Secretary of the Department in consultation with Head of Attached Department concerned. Secretary (Establishment) |

- xiii) While considering posting/transfer proposals all the concerned authorities shall keep in mind the following:
- a) To ensure the posting of proper persons on proper posts, the Performance Evaluation Report/annual confidential reports, past and present record of service, performance on post held presently and in the past and general reputation with focus on the integrity of the concerned officers/ officials be considered.
 - b) Tenure on present post shall also be taken into consideration and the posting/transfers shall be in the best public interest.

⁸¹ Added vide Urdu circular letter No: SOR-VI (E&AD)/1-4/2005, dated 9-9-2005.

xiv) Government servants including District Govt. employees feeling aggrieved due to the orders of posting/transfer authorities may seek remedy from the next higher authority / the appointing authority as the case may be through an appeal to be submitted within seven days of the receipt of such orders. Such appeal shall be disposed of within fifteen days. The option of appeal against posting/ transfer orders could be exercised only in the following cases.

- i) Pre-mature posting/transfer or posting transfer in violation of the provisions of this policy.
- ii) Serious and grave personal (humanitarian) grounds.

2. To streamline the postings/transfers in the District Government and to remove any irritant/confusions in this regard the provision of Rule 25 of the North West Frontier Province District Government Rules of Business 2001 read with schedule – IV thereof is referred. As per schedule-IV the posting/transferring authorities for the officers/officials shown against each are as under:-

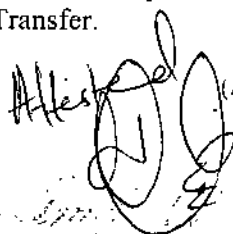
| S. No. | Officers | Authority |
|--------|--|--|
| 1. | Posting of District Coordination Officer and Executive District Officer in a District. | Provincial Government. |
| 2. | Posting of District Police Officer. | Provincial Government |
| 3. | Other Officers in BPS-17 and above posted in the District. | Provincial Government |
| 4. | Official in BPS-16 and below | Executive District Officer in consultation with District Coordination Officer. |

3. As per Rule 25(2) of the Rules mentioned above the District Coordination Department shall consult the Government if it is proposed to:

- a) Transfer the holder of a tenure post before the completion of his tenure or extend the period of his tenure.
- b) Require an officer to hold charge of more than one post for a period exceeding two months.

4. I am further directed to request that the above noted policy may be strictly observed/implemented.

5. All concerned are requested to ensure that tenures of the concerned officers/officials are invariably mentioned in summaries submitted to the Competent Authorities for Posting/Transfer.

Attested


(Authority: Letter No: SOR-VI/E&AD/1-4/2003 dated 24-6-2003).

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 214/2023

Atta ur Rehman (Junior Clerk BPS-11 DEO(F) Mardan)
.....(Appellant)

VERSUS

1. Govt of KPK through Secretary Elementary and Secondary Education Civil Secretariate Peshawar.
2. Secretary Elementary and Secondary Education Civil Secretariate Peshawar.
3. Director of Elementary & Secondary Education KP at Directorate of E&SED Hashtnagari Chowk, Near Qila Balu Hesar Peshawar.
4. District Education Officer (female) Mardan
5. Shahid Islam Junior Clerk (BPS-11) presently posted at GHS Sangao Mardan

.....(Respondents)

SUBJECT: Appeal under Section 4 of Service Tribunal Act, against the office order bearing Endst No 33-36 dated 04/01/2023 passed by respondent no 4 and transfer order dated 11/01/2023 passed by respondent 3 wherein appellant is transferred from the office of DEO(F) Mardan to GHSS Khanano Dherai Buner pre-mature transfer and against the wedlock transfer policy and the rejection order dated 20/01/2023 passed by the respondent no 2 on the appeal of the appellant as well as show cause notice dated 21/01/2023 are illegal against law and facts without lawful authority, void ab initio and liable to be set aside.

Respected Sir,

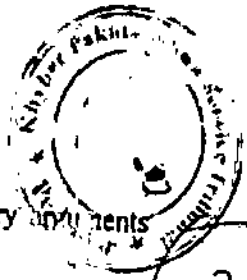
Appellant humbly submits as under:

1. That appellant was appointed vide order dated, 12/11/2018.
2. That wife of appellant namely Saima Kausar is posted as Primary School teacher (BPS-12) and is currently performing duty at GGPS Qasim No 1 Mardan as evident from service performance certificate, office order dated 03/02/2018 and monthly salary statement (Copy of the CNIC, office order dated 03/02/2018, service performance certificate & monthly salary statement of wife of appellant is attached as Annexure A)

SEPREM/COU

ATTESTED

Khyber Pakhtunkhwa
Service Tribunal
Peshawar



Learnt counsel for the appellant present Preliminary arguments heard.

Learnt counsel for the appellant has contended that vide order dated 19.07.2021, the appellant was transferred from the GHSS No. 1 Mardan and adjusted in the office of District Education Officer (Female) Mardan, however vide office order dated 20.08.2021 he was transferred to GHSS Jhangra Mardan, which order was also then withdrawn vide order dated 01.09.2021 issued from the office of Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar, that vide letter No. 976 dated 01.12.2022 addressed by the then District Education Officer (Female) Mardan to the Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar, it was conveyed that she was fully satisfied with the performance of the appellant in discharging his duties, however even then vide impugned order dated 04.01.2023, the present District Education Officer (Female) Mardan placed the services of the appellant at the disposal of Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar on administrative ground without any legal justification that vide impugned order dated 11.01.2023 issued from the office of Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar, the appellant was transferred from the office of District Education Officer (Female) Mardan to GHSS Khanano Ohera Buner on administrative ground and not in the interest of public, therefore, the impugned order dated 11.01.2023 is having no legal sanctity in the eye of law. that vide impugned transfer order, the appellant has been transferred on administrative ground, which is a stigma and the order regarding transfer on such ground should reveal cogent reasons but

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the Government has been permitted to issue the transfer order dated 14.01.2023, that the original transfer order dated 14.01.2023, which is the basis of the Government's decision to issue the transfer order, is not a valid one as it is in violation of the Government's policy as stated in the impugned order. The Government's policy as stated in the impugned order is in violation of the Government's policy as stated in the impugned order. The Government's policy as stated in the impugned order is in violation of the Government's policy as stated in the impugned order.

The Government has been permitted to issue the transfer order dated 14.01.2023, that the original transfer order dated 14.01.2023, which is the basis of the Government's decision to issue the transfer order, is not a valid one as it is in violation of the Government's policy as stated in the impugned order. The Government's policy as stated in the impugned order is in violation of the Government's policy as stated in the impugned order.

The Government has been permitted to issue the transfer order dated 14.01.2023, that the original transfer order dated 14.01.2023, which is the basis of the Government's decision to issue the transfer order, is not a valid one as it is in violation of the Government's policy as stated in the impugned order. The Government's policy as stated in the impugned order is in violation of the Government's policy as stated in the impugned order.

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Date of issue of this order: 22/01/23

22-01-23

[Signature]
 (Salah-Ud-Din)
 Member (J)
 Certified to be true copy
 Khyber Pakhtunkhwa
 Service Tribunal
[Signature]

بجانب
سپر کٹوخواہ سروس ٹرسٹوں میں
سماور

Appellant منجانب 2023

مورخہ: 11/02/2023

مقدمہ: ارشد انور

دعویٰ: Service appeal

جرم:

بنام: حکومت سندھ کٹوخواہ سروس ٹرسٹوں

باجبست تحریر آفندہ

مقدمہ مندرجہ عنوان بالا اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ

آن مقام سماور کیلئے امجد علی ایڈووکیٹ سپریم کورٹ آف پاکستان

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
بجانب دئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء وصولی چیک روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زاریں پر
دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا
اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختیار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پرواختہ منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ و جانہ
التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ پر ہوا یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکور کریں۔
لہذا وکالت نامہ لکھ دیا کہ سنڈرھے۔

2023

ماہ فروری

المرقوم: 11

العبد

سواہ

العبد

Accepted by:

کے لیے منظور ہے۔

بمقام سماور

Arshad Anwar
(Appellant)

Amjad

امجد علی ایڈووکیٹ سپریم کورٹ آف پاکستان، ڈسٹرکٹ کورٹس، مردان

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