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

Service Appeal No. 506/2022

BEFORE: MRS. ROZINA REHMAN ... MEMBER (J)  
MISS FAREEHA PAUL ... MEMBER (E)

**Mst. Mehrun Nisa, (Management Cadre) (BPS-18), District Education Officer (F) District Lower Chitral, under transfer to the Directorate of E&SE Department, for further posting. .... (Appellant)**

Versus

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Peshawar.
2. The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
3. The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
4. Mst. Haleema Bibi (BPS-19) (Teaching Cadre) under transfer against the post of DEO (F) Lower Chitral. .... (Respondents)

Mr. Noor Muhammad Khattak,  
Advocate

... For appellant

Mr. Naseerud Din Shah,  
Assistant Advocate General

... For official respondents

Mr. Sher Hyder Khan,  
Advocate

... For private respondent No. 4.

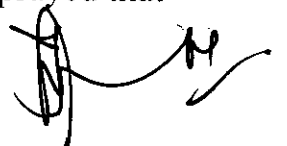
Date of Institution..... 11.04.2022

Date of Hearing..... 23.12.2022

Date of Decision..... 23.12.2022

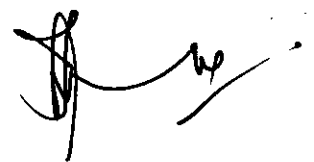
**JUDGEMENT**

**FAREEHA PAUL, MEMBER (E):** The service appeal in hand has been instituted under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 08.02.2022 whereby the appellant was transferred from District Education Officer (Female) District Lower Chitral to Directorate of Elementary & Secondary Education Peshawar and against the order dated 07.04.2022 of the appellate authority. It has been prayed that



on acceptance of the appeal, the impugned orders might be set aside and the respondents be directed not to transfer the appellant from the post of District Education Officer (Female) Lower Chitral.

2. Brief facts of the case, as given in the memorandum of appeal, are that the appellant was serving in the respondent department as Management Cadre Officer. While performing her duties in the respondent department she was transferred and posted as District Education Officer (F) Lower Chitral vide notification dated 10.04.2020. In pursuance of that notification, she took over the charge of her post on 11.04.2020. Astonishingly vide impugned notification dated 08.02.2022, the appellant was transferred from her post and her services were placed at the disposal of the Directorate of Elementary & Secondary Education, Peshawar, whereas the private respondent No. 4, who belonged to the Teaching Cadre, was transferred and posted as District Education Officer (F) Chitral Lower vide the impugned notification in utter violation of the Transfer Posting Policy of the Provincial Government and judgment of the Hon'ble Peshawar High Court. Feeling aggrieved from the impugned notification dated 08.02.2022, the appellant submitted departmental appeal before the appellate authority on 09.02.2022. As the Service Tribunal was non-functional at the time when the impugned notification was issued, therefore, the appellant preferred a Writ Petition before the Hon'ble Peshawar High Court but the same was turned down on the ground that the appellant was supposed to wait till the completion of the statutory period of ninety days. Vide letter dated 07.04.2022, the departmental appeal of the appellant was regretted, hence the present appeal.



3. Respondents were put on notice who submitted written replies/comments on the appeal. We have heard the learned counsel for the appellant as well as the learned Assistant Advocate General for the official respondents and learned counsel for private respondent No. 4 and perused the case file with connected documents in detail.

4. Learned counsel for the appellant after presenting the case in detail contended that the appellant had not been treated in accordance with law and rules on the subject and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan. He further contended that the impugned notification dated 08.02.2022 was against the Clauses I & II of the Transfer/Posting Policy of the Provincial Government. According to him, the impugned notification dated 08.02.2022, to the extent of appellant and private respondent No. 4, was violative of the judgment of the Hon'ble Peshawar High Court, Peshawar. He further contended that the appellant belonged to the Management Cadre and the private respondent No. 4 belonged to the Teaching Cadre, and the subject post was that of Management cadre, so no person belonging to the teaching cadre could be posted on the post of Management Cadre.

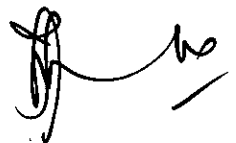
5. Learned Assistant Advocate General while rebutting the arguments of learned counsel for the appellant, contended that the appellant was transferred by the competent authority after completion of her normal tenure on the same post/station, and that as per rules appellant could be posted anywhere in the exigencies of service. He further contended that departmental appeal of the appellant was disposed of on merits after



providing an opportunity of personal hearing to her. The appellant being a civil servant was required to serve anywhere in the Province under the mandatory provisions of Section 10 of Khyber Pakhtunkhwa Civil Servants Act, 1973. According to him posting transfer could not be claimed as a matter of right. He requested that the appeal might be dismissed with cost.

6. Learned counsel for private respondent No. 4 contended that the post of DEO (Female) was a BPS- 19 post whereas the appellant was a BPS- 18 officer and was posted in her own pay and scale as DEO (Female) whereas the private respondent No. 4 was in BPS-19 and was entitled to be posted against the said post. He requested that the appeal might be dismissed with cost.

7. The appellant is a Management Cadre officer in the Elementary and Secondary Education Department and as stated by her before this bench, she was appointed in 2012 in the respondent department and served in Chitral at different positions, since then. Currently she is in BPS-18 and was serving on the post of DEO(F) Chitral Lower which is a BS-19 position, when she was transferred and directed to report to the Directorate of Elementary and Secondary Education vide order dated 08.02.2022. Record indicates that she was appointed as DEO (F) on 10.04.2020, which indicates that she served there for a period of almost two years. As per policy of the Government, Chitral is a hard area and posting tenure for hard area is one year as against the normal tenure of two years. This means that the appellant had completed her tenure of posting at Chitral and was rightly posted out from there. It appears that place for her adjustment was not available immediately and she




was directed to report to the Directorate of Elementary and Secondary Education in February 2022 from where, as stated by her, she was adjusted as DEO (Female) Kohitan Upper in August 2022. She submitted an appeal against that and honoring her request, the competent authority adjusted her as DEO (F) Bajaur on 20.10.2022. A charge report dated 22.10.2022 in pursuance of order dated 20.10.2022 was produced before this Bench.

8. From the above discussion, it transpires that the officer spent a considerable period in Chitral, since her appointment, on different positions. As DEO (F) Chitral Lower, she spent more than the normal tenure of posting for hard area and was rightly posted out. She was first transferred to Kohistan Upper and then, on her own request, she was facilitated and transferred to Bajaur where she assumed the charge also. If we look into the details of the case, there is no wrong done by the respondent department, administratively. The appellant has taken over the charge of the new position at Bajaur also and she should be allowed to complete her tenure there; hence this appeal has become infructuous and is dismissed. Parties are left to bear their own costs. Consign.

9. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 23<sup>rd</sup> day of December, 2022.*

  
(FAREEHA PAUL)  
Member (E)

  
(ROZINA REHMAN)  
Member (J)

SA 506/2022


23<sup>rd</sup> Dec. 2022 Mr. Noor Muhammad Khattak, Advocate for appellant present.

Mr. Naseerud Din Shah, Assistant Advocate General for official respondents and Mr. Sher Hyder Khan, Advocate for private respondent No. 4 present. Arguments heard and record perused.

2. Vide our detailed judgement containing 05 pages, it transpires that the officer spent a considerable period in Chitral, since her appointment, on different positions. As DEO (F) Chitral Lower, she spent more than the normal tenure of posting for hard area and was rightly posted out. She was first transferred to Kohistan Upper and then, on her own request, she was facilitated and transferred to Bajaur where she assumed the charge also. If we look into the details of the case, there is no wrong done by the respondent department, administratively. The appellant has taken over the charge of the new position at Bajaur also and she should be allowed to complete her tenure there; hence this appeal has become infructuous and is dismissed. Parties are left to bear their own costs. Consign.

3. *Pronounced in open court in Peshawar and given under our hands and seal of the Tribunal this 23<sup>rd</sup> day of December, 2022.*

  
(FAREEHA PAUL)  
Member (E)

  
(ROZINA REHMAN)  
Member (J)

خ.پ.ک. کے لیے تیار کیا گیا ہے

Appeal No. 10296/2021

from Appellant side.

**THE KHYBER PAKHTUNKHWA EPIDEMIC CONTROL AND EMERGENCY  
RELIEF ACT, 2020**

**(KHYBER PAKHTUNKHWA ACT NO. XXVII OF 2020)**

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**THE KHYBER PAKHTUNKHWA EPIDEMIC CONTROL AND EMERGENCY  
RELIEF ACT, 2020**

**(KHYBER PAKHTUNKHWA ACT NO. XXVII OF 2020)**

(First published after having received the assent of the Governor of the Khyber  
Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa.  
(Extraordinary), dated 24/07/2020)

**AN  
ACT**

*to provide for prevention and control of infectious diseases  
in the Province of the Khyber Pakhtunkhwa and to provide  
relief to the people in emergency situation.*

**WHEREAS** it is expedient to provide for prevention and control of infectious diseases in the Province of the Khyber Pakhtunkhwa, to implement and enforce mechanism to control the spread of such diseases and to provide relief to the people in an emergency situation arising due to spreading of such infectious diseases and for matters connected therewith and ancillary thereto;

**AND WHEREAS** it is necessary to amend certain laws relating to public health and disaster management in order to bring them at par in combating the epidemic and other infectious diseases;

It is hereby enacted as follows:-

**PART-I  
PRELIMINARY**

- 1. Short title, extent and commencement.**--- (1) This Act may be called the Khyber Pakhtunkhwa Epidemic Control and Emergency Relief Act, 2020.
  - (2) It shall extend to the whole of the Province of Khyber Pakhtunkhwa.
  - (3) It shall come into force at once.
- 2. Definitions.**--- In this Act, unless the context otherwise requires,-
  - (a) "declaration" means the declaration of a serious and imminent infection threat, made under section 3 of this Act and may also include declaration of any emergency relating to outbreak of any disease under any law relating to public health and disaster management;

- (b) "designated officer" means the Officer or Officers mentioned in Schedule-I to this Act to exercise any or all such powers and functions that are assigned under this Act;
- (c) "educational institution" means any pre-school, elementary or secondary school, college, university, higher educational institute, *madaris* or any vocational, professional or technical training institute whether in public or private sector providing formal or non-formal education;
- (d) "emergency period" means the period for taking measures for prevention, protection and control of infectious disease, as notified by Health Department of Government under this Act, from time to time and may also include period of such other emergency, declared under any other law relating to public health and disaster management concerning outbreak of any disease;
- (e) "employee" means a person not falling within the definition of employer who is employed in an establishment for hire or reward either directly or through a contractor whether the terms of employment are express or implied and includes a worker for wages;
- (f) "employer" means the owner of an establishment and also includes any person or body of persons, whether incorporated or not, who or which hires employees in the establishment under a contract of employment and includes-
  - (i) an heir, successor or assign, as the case may be, of such person or body as aforesaid;
  - (ii) any person responsible for the management and control of the establishment; and
  - (iii) in relation to an establishment run by or on behalf of a local authority, the officer appointed in this behalf, or where no officer is so appointed, the chief executive officer of that authority;
- (g) "establishment" means any office, firm, factory, society, undertaking, industry, company of all types, educational institution, shop, restaurant, corporation or any other enterprise, which hire employees directly or through a contractor for the purpose of carrying on any business or industry and includes all its departments and branches in the Province of the Khyber Pakhtunkhwa;
- (h) "Government" means the Government of the Khyber Pakhtunkhwa;
- (i) "landlord" means the owner of the premises and includes a person who is for the time being authorized or entitled to receive rent of the premises;
- (j) "minor" means a person with an age of less than eighteen years;

- (k) "notified medical officer" means a medical officer or a health professional, notified by the Secretary, for the purpose of this Act;
- (l) "potentially infectious person" means a person who-
  - (i) is suspected to be infected or contaminated with an infectious disease;
  - (ii) is a risk that such person might spread, infect or contaminate other persons with an infectious disease; or
  - (iii) has arrived from or through an area affected by an infectious disease within fourteen days or such other period as may be specified by the Secretary immediately preceding the date of his arrival;
- (m) "regulations" mean the regulations made under this Act;
- (n) "rules" mean the rules made under this Act;
- (o) "Schedule" means the any of the Schedules, appended to this Act;
- (p) "Secretary" means Secretary to Government Health Department;
- (q) "tax" means any tax, cess, charge, rate or fee, as the case may be, imposed or chargeable under any law for the time being in force; and
- (r) "tenant" means any person who undertakes or is bound to pay rent as consideration for the possession or occupation of any premises by him or by any other.

**3. Serious and imminent infection threat declaration.**--- (1) The Secretary may, with the approval of the Chief Minister, by notification in the official Gazette, declare that the incidence or transmission of an infectious diseases poses a serious and imminent threat to public health in the whole or any part of the Khyber Pakhtunkhwa.

(2) The Secretary may also, with the approval of Chief Minister, specify the period which shall be deemed as emergency period made under this section.

(3) The Secretary may, with the approval of the Chief Minister, by notification in the official Gazette, revoke a declaration made under this section.

(4) Before seeking approvals under sub-sections (1) and (3), the Secretary shall have due regard to any advice from-

- (a) the Director General, Health Services Khyber Pakhtunkhwa; and
- (b) not less than two eminent epidemiologists, appointed by the Chief Minister, for rendering such advice.

(5) Any declaration of an incidence or transmission of an infectious disease already made before the commencement of this Act, under any law relating to public health and disaster

management shall be deemed to be a declaration made under this Act and unless provided otherwise in the declaration itself, it shall continue to remain effective, until specifically withdrawn by the Secretary after approval of the Chief Minister.

**PART-II**  
**GENERAL HEALTH**  
**PROTECTION MEASURES**

**4. Power to impose duties, confer functions etc.**--- Subject to the declaration, the Director General, Health Services, Khyber Pakhtunkhwa may-

- (a) impose duty upon all registered medical practitioners and health facilities in any area of the Khyber Pakhtunkhwa, to record, communicate and treat cases of infection or contamination; or
- (b) confer functions, with the approval Chief Minister, upon one or more officers and servants or a description of officers and servants of the Government, and if so required one or more local governments in the Khyber Pakhtunkhwa in relation to monitoring and control of public health risk; or
- (c) impose one or more restrictions or requirements on or in relation to persons, things or premises as mentioned in section 5.

**Explanation:** For the purpose of this section,-

- (i) a registered medical practitioner shall include a registered medical practitioner not in employment of the Government; and
- (ii) the term health facility shall be deemed to include a clinic, hospital, medical teaching institute, diagnostic laboratory and any other facility engaged in the provision of health services and not owned, financed, managed or run by Government.

**5. General restrictions and requirements.**--- (1) For the purposes of clause (c) of section 4 of this Act, a person or a class or description of persons may be required to-

- (a) undergo a specified medical examination and submit results as indicated in the requirement;
- (b) be disinfected or decontaminated;
- (c) wear specified protective clothing;
- (d) attend training or advisory sessions on how to reduce the risk of infecting or contaminating others;
- (e) be subject to one or more restrictions as to where he may go or with whom he may maintains contact; and

(f) abstain from working or trading.

(2) For the purposes of clause (c) of section 4 of this Act, a thing or a class or description of things shall-

- (a) be seized or retained;
- (b) be kept in isolation or a specified quarantine;
- (c) be disinfected or decontaminated; and
- (d) if so required, be destroyed or disposed of.

(3) For the purposes of clause (c) of section 4 of this Act, the premises or class or description of premises shall-

- (a) be kept in a sanitary condition; and
- (b) be disinfected or decontaminated.

**6. Directions and restrictions relating to attendance of public places, schools and burials etc.**--- Subject to a declaration, the designated officer may, for a specified period:

- (a) impose a specific or general duty upon persons who have responsibility for a minor to ensure that the minor does not attend his school or where so required, shall conform to certain direction for such attendance;
- (b) order closure of any establishment, by a general or special order, bar its employees from attending their place of work or to follow guidelines to be issued in this behalf;
- (c) impose a specific or general restriction or requirement relating to the handling, transport, burial or cremation of dead bodies or the handling, transport or disposal of human remains; and
- (d) impose general or special conditions for attending public places, including but not limited to conditions for use of facial or other masks, use of other protective gears, maintaining order and safe distances to avoid crowding, undergoing sanitization, sterilization, immunization and cleanliness measures etc.

**PART-III**  
**CONTROL OF EVENTS, GATHERINGS AND**  
**PREMISES**

**7. Prohibition or restriction of events and gatherings.**--- (1) Subject to a declaration, the designated officer may issue directions prohibiting or imposing one or more requirements or restrictions in relation to the holding of an event or gathering for a specified period.

(2) A direction under sub-section (1), may be issued in relation to-

- (a) a specified event or gathering; or
- (b) events or gatherings of a specified description including description with reference to the number of people attending the event or gathering.

(3) A direction under sub-section (1) may only have the effect of imposing prohibitions, requirements or restrictions on-

- (a) the owner or occupier of premises for an event or gathering to which the direction relates;
- (b) the organizer of such an event or gathering; and
- (c) any other person involved in holding of such an event or gathering.

**8. Closing or restricting entry into and exit from a premises.**--- (1) Subject to a declaration, the designated officer may issue directions prohibiting or imposing one or more requirements or restrictions in relation to the entry into, exit from or location of persons in a premises for a specified period.

(2) A direction under sub-section (1) may be issued in relation to-

- (a) a specified premises; or
- (b) premises of a specified description.

(3) A direction under sub-section (1) may only have the effect of imposing prohibitions, requirements or restrictions on-

- (a) the owner or occupier of premises to which the direction relates; and
- (b) any other person involved in entry into or exit from such premises or the location of persons in them.

(4) A direction under sub-section (1) may impose requirements for the purpose of-

- (a) closing or sealing the premises;
- (b) restricting entry into the premises; and
- (c) securing restrictions in relation to the location of persons.

(5) A direction under sub-section (1) may impose prohibitions, requirements or restrictions on-

- (a) the facilities in the premises;
- (b) number of persons in the premises;
- (c) the size of the premises;
- (d) the purpose for which a person is in the premises; and
- (e) the manner in which such premises is attended or utilized.

**9. Restricting entry into and exit from a general area.**--- Subject to a declaration, the Deputy Commissioner of the concerned area may, on the advice of the designated officer concerned, issue directions prohibiting, or imposing requirements or restrictions in relation to the entry into, exit from, or location of persons, goods, vehicles, vessels and other means of transportation in any area for a specified period.

**PART-IV  
CONTROL OF POTENTIALLY INFECTIOUS  
PERSONS**

**10. Movement and retention of potentially infectious person to a suitable place.**--- (1) In an area, subject to a declaration, a notified medical officer may, after having informed a potentially infectious person of the reasons for doing so, direct such person to proceed to a specified place which is suitable for screening and assessment and remain there for a period mentioned under sub-section (3).

(2) Where a potentially infectious person fails to follow a direction issued under sub-section (1), the notified medical officer may himself or through the designated officer concerned-

- (a) move him to the specified place; or
- (b) direct a police officer, through the concerned head of the district police, to move him to the specified place.

(3) A notified medical officer may require a potentially infectious person to remain at a place suitable for screening and assessment for a period which shall not exceed forty-eight hours unless-

- (a) in the opinion of the notified medical officer, the person is required to be retained for a longer duration for valid satisfactory screening and assessment requirements; or
- (b) a longer maximum retention period is otherwise ordered by the Secretary with the approval of the Chief Minister in general or for one or more circumstances related to an infectious disease.

(4) The provisions of sub-section (3) shall also apply to a person who voluntarily reports to a place specified for screening and assessment.

(5) After each subsequent interval of twenty-four hours during which a person is retained at a place specified for screening and assessment, the notified medical officer shall review the need for continuing his retention.

(6) After making a review under sub-section (5), the notified medical officer may-

- (a) discontinue retention if he considers that the retained person is no longer potentially infectious or contaminated; or



- (b) extend the period of retention if he considers that the person is potentially infectious at the end of that period.

**11. Duty to undergo screening and assessment.**--- (1) In an area, subject to a declaration, a notified medical officer may impose upon a potentially infectious person one or more screening requirements to assess the level of risk of infection or contaminating to others and carry out such an assessment.

- (2) For the purpose of this section, a potentially infectious person shall-
  - (a) answer every question on his health or other relevant circumstances including travel history and information regarding other persons who might have contacted him;
  - (b) provide sufficient information to allow making a contact with him for the purpose of this Act during such period as the notified medical officer considers appropriate;
  - (c) produce any document which may be required in assessing his health;
  - (d) allow personal examination including measurement of body temperature and other physical conditions by an appropriate mean;
  - (e) allow taking of a biological sample by an appropriate mean or provide such a sample; and
  - (f) forthwith move to and remain at another place which is, in view of the notified medical officer, suitable for the purpose of this section.

(2) The provisions of this section shall also apply to a potentially infectious person who has not been moved or retained for screening and assessment under section 10.

(3) A notified medical officer may impose one or more requirements under sub-section (2) through a police officer.

**12. Additional requirements and restrictions for persons presenting significant risk.**---

(1) After screening and assessment under section 11, where-

- (a) a person is found to be infected or contaminated; or
- (b) the results of his screening and assessment are inconclusive, the notified medical officer may, after having informed him of the reasons for doing so, require such person to-
  - (i) provide any relevant information in addition to the information mentioned in sub-section (2) of section 11;
  - (ii) undertake further screening and assessment;
  - (iii) remain at a specified place which may include a place suitable for screening and assessment for a specified period;

- (iv) forthwith proceed to a specified place suitable for such purpose and to remain at such place for a specified period; or
- (v) remain at a specified place in isolation from others for a specified period.

(2) A notified medical officer may, after having informed him of the reasons for doing so, through the designated officer concerned, impose one or more restrictions upon a person, referred to in sub-section (1), for a specified period which may include restrictions relating to-

- (a) his movement or travel including travels within and outside the Khyber Pakhtunkhwa;
- (b) his activities including work or business activities; and
- (c) his contact with other persons or with other specified persons.

(3) The period, specified for requirements referred to in sub-section (1), and the restrictions referred to in sub-section (2), shall not exceed fourteen days, unless,-

- (a) in view of the notified medical officer, the requirement or restriction is required for a longer duration; or
- (b) a longer maximum period is otherwise ordered by the Secretary with the approval of the Chief Minister in general or for one or more circumstances related to an infectious disease.

(4) Where a person is required to remain at a place under sub-section (1), the notified medical officer, through the designated officer, may direct a police officer, after consulting the concerned head of the district police, to enforce such requirement.

(5) After each subsequent interval of forty-eight hours during which a person is subjected to a restriction or is retained under this section, the notified medical officer shall review the need for continuing the restriction or retention.

(6) After making a review under sub-section (5), the notified medical officer may-

- (a) withdraw a requirement or restriction if he considers that the person subjected to a restriction or retention under this section is no longer potentially infectious or contaminated;
- (b) substitute a different requirement or restriction; or
- (c) extend the period of a requirement or restriction if he considers that the person is potentially infectious or contaminated at the end of that period.

**13. Applicability of provisions to minors and wards.---** (1) A person or a Guardian, who has responsibility for a minor or a ward, shall ensure that the minor or the ward complies with any direction, instruction, requirement or restriction imposed upon him under this Act.

(2) A person or a Guardian, who has responsibility for a minor or a ward, shall provide to the person exercising a power under this Act, such information and assistance in relation to the minor or the ward as is reasonably necessary and practicable.

(3) Where a power under this Act is exercisable in relation to a minor or a ward and he is unaccompanied, the person, by whom that power is to be exercised, shall, wherever practicable,-

- (a) contact the person or the Guardian responsible for the minor or the ward before the exercise of the power; or
- (b) take reasonable steps after the exercise of that power to contact and inform the person or the Guardian responsible for the minor or the ward.

**14. Duty to inform.**--- It shall be duty of every person, including-

- (a) head of a family;
- (b) a health care provider including every physician, dentist, nurse, health aide, in-charge of a hospital or a diagnostic laboratory;
- (c) in-charge of a school, college, university, seminary or other educational facility;
- (d) in-charge of a public transport, hotel, restaurant, work place or other public or private facility including a hostel; and
- (e) in-charge of a place of worship,

who knows or believes, or has reason to know or believe, that a person under his care, supervision or control is suffering from an infectious disease or is contaminated, to report such case to a notified medical officer immediately.

**15. Pre-conditions and manner of exercise of powers.**---(1) No power, conferred under sections 10, 11, 12 and 13 of this Act, shall be exercised by a notified medical officer or a designated officer, as the case may be, unless he considers it necessary and appropriate to do so-

- (a) in the interest of potentially infectious person;
- (b) for the protection of other persons from the risk of infection or contamination; or
- (c) in the interest of public health in general.

(2) A direction, instruction, requirement or restriction, under this Act, may be given or imposed orally or in writing.

(3) A person, exercising a power conferred under this Act, shall have regards to-

- (a) any relevant guidance issued by the Secretary; and

- (b) any advice, given by a notified medical officer, in relation to any particular case.

**16. Ancillary powers.**--- (1) A designated officer, a notified medical officer or a police officer may give reasonable instructions to a person in connection with-

- (a) a direction given to that person under this Act; or
- (b) moving that person or retaining him at a place under this Act.

(2) A power, conferred under this Act, to move a person to a place includes a power to keep the person for a reasonable period pending his movement.

(3) A police officer may use reasonable force, if necessary, in exercise of powers conferred under this Act.

(4) A police officer shall have the power to apprehend a person running away from a place where he is retained or isolated under this Act and return him to that place or another place which a notified medical officer may specify, and may use reasonable force, if necessary, for this purpose.

(5) A police officer, not below the rank of an Assistant Sub-Inspector, may enter any place for the exercise of a power conferred under this Act.

#### **PART-V OFFENCES AND PENALTIES**

**17. Offences and penalties in respect of directions and restrictions imposed under Part-II and III.**--- (1) A person commits an offence if he fails without reasonable excuse to comply with any direction, reasonable instruction, duty, requirement or restriction imposed upon him under this Act.

(2) A person guilty of a first offence under this section shall, on conviction, be punished with an imprisonment for a term not exceeding two months or a fine not exceeding fifty thousand rupees, or both.

(3) A person guilty of a repeat offence under this section, shall, on conviction be punished with an imprisonment for a term not exceeding six months or a fine not exceeding one hundred thousand rupees, or both.

(4) Where an offence under this section is committed by a body corporate-

- (a) the fine for a first offence shall not be less than fifty thousand rupees and not exceeding two hundred thousand rupees; and
- (b) the fine for a repeat offence shall not be less than one hundred thousand rupees and shall not exceed three hundred thousand rupees.

- (5) Where an offence under this section by a body corporate is proved-
- (a) to have been committed with the consent or connivance of an officer of the body; or
  - (b) to be attributable to any neglect on the part of such an officer,

the officer shall be guilty of the offence and liable to be prosecuted and proceeded against and punished accordingly.

(6) Where non-compliance of a direction, instruction or restriction is that of excluding such person from general public, it shall be lawful upon conviction for the offence during the term of imprisonment so awarded, to confine such person separately for such period and at such facility or premises, as deemed appropriate by a notified medical officer.

**18. Offences and penalties in respect of certain directions, restrictions and duties imposed under Part-IV.--** (1) A person commits an offence, if he-

- (a) fails without reasonable excuse to comply with any direction, reasonable instruction, requirement or restriction given to or imposed upon him under Part-IV of this Act; or
- (b) fails without reasonable excuse to comply with a duty imposed upon him in relation to a minor or ward under section 13 of this Act; or
- (c) knowingly provides false or misleading information in response to a requirement to provide information under section 11 and 12 of this Act; or
- (d) obstructs a person who is exercising or attempting to exercise a power conferred under Part-IV of this Act.

(2) A person guilty of a first offence under this section shall, on conviction, be punished with an imprisonment for a term not exceeding three months or a fine not exceeding fifty thousand rupees, or both.

(3) A person guilty of a repeat offence under this section, shall, on conviction be punished with an imprisonment for a term not exceeding one year or a fine not exceeding one hundred thousand rupees, or both.

**19. Offence and penalty for running away from a place of retention.--** (1) A person shall be deemed to commit an offence, if he runs away or attempts to run away, while being moved to or kept at a place under Part-IV of this Act.

(2) A person guilty of an offence under this section shall be arrested and kept in forced quarantine, for such term as may be determined by the notified medical officer and may also be liable to a fine which may extend to rupees fifty thousand.

**20. Cognizance and trial of offences.**—(1) No court other than that of a Magistrate of First Class or Special Magistrate appointed under section 14A of the Code of Criminal Procedure, 1898, shall take cognizance of or try an offence under this Act.

(2) All offences under this Act shall be tried in accordance with the procedure prescribed for summary trials of offences under the Code of Criminal Procedure, 1898 (Act V of 1898).

(3) A person, including a designated officer, aggrieved by any order of conviction and sentence or otherwise by a Special Magistrate, may file an appeal before a District and Sessions Judge of the concerned District within thirty (30) days of the said order.

(4) An appeal under sub-section (3) shall be disposed of within thirty (30) days.

#### **PART-VI COMMON PROVISIONS**

**21. General powers for prevention and control of infection.**— (1) Without prejudice to other provisions of this Act as well as the powers conferred under any other law for the time being in force—

- (a) the designated officer concerned may take all such steps and measures which he deems necessary to provide relief to persons affected by an infectious disease in any area subject to a declaration; and
- (b) the Deputy Commissioner of the district subject to a declaration, shall take all such steps and measures which he deems necessary to maintain order and provide immediate relief to persons affected by an infectious disease.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), the designated officer concerned or, as the case may be, the Deputy Commissioner of the district subject to a declaration shall have the powers to—

- (a) evacuate or segregate population;
- (b) requisition means of transport including motor vehicles, carriages, boats and earth moving machinery;
- (c) require declaration of surplus stocks of food, medicines and other stores and commodities considered essential by him and to requisition them;
- (d) requisition of buildings, facilities including facilities relating to provision of health services;
- (e) conscript labour; and
- (f) direct any person to abstain from certain act or to take certain orders, requirements and restrictions.

(3) A person owning transport, articles, stocks, medicines, building and facilities which are requisitioned or the labour who are conscripted for work or the person who is directed to abstain from certain act or to take certain orders, requirements and restrictions under this section shall be entitled to a reasonable compensation as determined by the designated officer concerned.

(4) Subject to the right of an owner to a claim under sub-section (3), the transport, articles, stocks, medicines, building and facilities shall forthwith rest with the designated officer concerned who may himself, or through the Deputy Commissioner, deal with them in such manner as he deems proper in order to discharge his duties under this section.

**22. Enforcement.**--- (1) The Deputy Commissioners shall, in the respective districts, ensure compliance of an order, direction, restriction, requirement or any other measure under this Act.

(2) For purposes of sub-section (1), a Deputy Commissioner may take such steps or pass such orders as he considers necessary including an order to an officer sub-ordinate to him or a police officer, through the concerned head of the district police.

(3) For purposes of enforcement of an order, direction, restriction or requirement issued under sections 4, 5, 6, 7 and 8 of this Act, a Deputy Commissioner, an officer sub-ordinate to him, a police officer or any other person referred to in sub-section (2), may-

- (a) enter upon any premises;
- (b) detain persons for a maximum period of twenty-four hours; and
- (c) if necessary, use reasonable force to ensure compliance.

**23. Requisition of services of Government officials.**--- The designated officer concerned or, as the case may be, the Deputy Commissioner of the area, subject to a declaration, may after having consulted the secretary of the respective Administrative Department of the Government, requisition the services of officers and officials of that Department for the purpose of this Act.

**24. Delegation and concurrent exercise of certain powers.**--- (1) The Secretary may delegate all or any of the powers conferred upon him under this Act, except the powers conferred under section 3, to a Commissioner, Deputy Commissioner or any other officer sub-ordinate to him.

(2) The powers of a notified medical officer, under this Act, shall be concurrently exercisable by the Officers of the District Administration.

(3) The designated officer, upon informing the Chief Secretary in writing, may also delegate all or any of the powers conferred upon him under this Act to any other officer sub-ordinate to him.

**25. Revision against an order etc. of designated officer and others.**--- (1) A person against whom an order, direction, instruction, requirement or restriction has been imposed by a designated officer, a notified medical officer, or a police officer, as the case may be, under this

Act may file a revision petition before a Board comprising the Commissioner of the respective division, if he is not the designated officer himself, and a medical officer notified by the Secretary:

Provided, in case the Commissioner happens to be the designated officer, Secretary to Government Home and Tribal Affairs Department shall be the member of such Board instead.

(2) A revision petition under sub-section (1) may be filed by the person responsible for a child or award in relation to whom an order, direction, instruction, requirement or restriction has been imposed by a notified medical officer or a police officer under this Act.

(3) All revision petitions shall be decided by the board through a written order within fifteen days from their presentation.

## PART-VII RELIEF

**26. General Relief.**--- Notwithstanding anything contained in any other law, for the time being in force, for carrying out the purposes of this Act, pursuant to a declaration under section 3, the following reliefs shall be provided for a period of three (03) months from the date of promulgation of this Act and for such subsequent period or periods that the Government may determine from time to time:

- (a) all educational institutions, charging monthly fee including tuition and other charges,-
  - (i) exceeding rupees six (06) thousand shall not charge from its students more than eighty percent (80%) of the total monthly fees; and
  - (ii) upto rupees six (06) thousand shall not charge more than ninety percent (90%) of the total monthly fees:
- (b) the amount of relief provided in respect of monthly fee, under this Act, shall not be recovered as arrears under any circumstances or under any existing or new head of account:

Provided that in addition, no student shall be placed at any disadvantageous position in terms of fee which he was paying or any concession that he may be enjoying before the promulgation of this Act;

Provided further that no educational institutions shall give effect to any annual increase in monthly fees, even if otherwise permissible, during the aforesaid period or periods of relief.

- (c) during the period of relief, no employee or worker shall be laid off, terminated or removed from service on account of his absence, furlough or



non-performance of duties owing to closure of any establishment, shut-down or other measures relating to epidemic control:

Provided that the employer, during the currency of a declaration under section 3, may require any employee or worker to work from home, if nature of his job so permits;

- (d) the concession for the water charges during the period of relief, for all domestic, residential and commercial consumer shall be such as provided in the Schedule-II;
- (e) no tenant shall be evicted under the rent restriction laws by the landlord on account of default in payment of monthly rent:

Provided that the same shall not apply in cases where the landlord is a widow, minor orphan, disabled person or a senior citizen as defined in the Khyber Pakhtunkhwa Senior Citizens Act, 2014 (Khyber Pakhtunkhwa Act No. XXXV of 2014); and

- (f) the Non-governmental organization registered with the departments of Government, shall collaborate and share the data in connection with relief activities being done or performed for mitigating COVID-19 pandemic across the Khyber Pakhtunkhwa.
- (g) the designated officer may organize, control or regulate any volunteering campaigns, where volunteers may be involved in voluntary provision of personal services, physical assistance, knowledge and skills or performing of other activities for the benefit and relief of other citizens, bodies, government organizations and other institutions without any monetary compensation or reward, for combating the epidemic or otherwise:

Provided that the Home and Tribal Affairs Department may, by notification in the official Gazette, frame regulations for the conduct of volunteers and any such volunteering campaigns.

**27. Penalty.**--- (1) Whoever contravenes the provisions of section 26, without prejudice to any punishment to which he may be liable under any other law for the time being in force, shall be punishable with on spot fine which may extend up to rupees one million or attachment of movable, immovable, perishable property or both, on a complaint made by an aggrieved person in writing to an officer authorized under section 35:

Provided that the order of imposing the penalty shall be in writing containing reasons for the issuance of the order thereof.

(2) In case of non-payment of fine, the same shall be recovered as arrears of land revenue under the West Pakistan Land Revenue Act, 1967 (Act No. XVII of 1967).

**28. Relief by Government.**--- (1) Notwithstanding anything contained in any other law, for the time being in force, Government may,-

- (a) provide total or partial exemption, suspension or deferral of the payment of the provincial taxes, duties, fees, cess, levies and charges in the manner as may be notified; and
- (b) appoint the health staff on short term contracts under locum tenens or otherwise, with such package and on such terms and conditions as the Government may specify:

Provided that the health staff, hired for short-term services under clause (b) of this sub-section, shall not be entitled to any permanent status, regularization or absorption into Government service in any manner.

(2) No penalty or surcharge shall be imposed for late submission of sales tax or other returns under the Khyber Pakhtunkhwa Finance Act, 2013 (Khyber Pakhtunkhwa Act No. XXI of 2013) by the relevant authorities for the months of March 2020 to June 2020.

**29. Courts proceedings to be through video link.**--- (1) Notwithstanding anything contained in any law, for the time being in force, all the Courts and Tribunals, wherever possible, may direct any litigant, accused, witness, legal representative or any other person or officer of the Court to participate in any proceeding of the Court, through video link:

Provided that while giving such directions the Courts or Tribunals, as the case may be, must consider all the circumstances of the case and may rescind such directions where it appears to the Court or the Tribunal that it is not in the interest of justice to do so.

Provided further that any proceedings so undertaken through video link shall be considered judicial proceedings and shall form part of the record. Upon pronouncement of a decision upon such proceedings, it shall not be called in question on the ground that presence of persons concerned was not procured physically.

(2) The powers of the Court or Tribunal under this section are in addition to and not in derogation of any other powers already available to such Courts or Tribunals, in this respect.

(3) High Court, if so deems appropriate, may issue guidelines for regulating the proceedings before Courts or Tribunals through video-link, which guidelines, if so issued, shall be notified in the official Gazette and shall be binding on all concerned.

**30. Period of limitation under various laws.**--- Notwithstanding anything contained in the Limitation Act, 1908 (Act No. IX of 1908) or any other law prescribing limitation for initiating any legal proceedings, the limitation period provided under various laws shall remain frozen from 1<sup>st</sup> March 2020 till the culmination of the emergency period and the proceedings so filed before any court or tribunal during or immediately upon cessation of such emergency period, shall not be time-barred on account of any delay for the aforesaid period.

**31. Extension of transition period of local governments elections.**--- The transition period of six months for establishment of new local government system provided under section 120A of the Khyber Pakhtunkhwa Local Government Act, 2013 (Khyber Pakhtunkhwa Act No. XXVIII of 2013) shall be read as two years:

Provided the election or any proceeding incidental thereto or ancillary therewith of any local governments or a vacancy arising therein shall not be conducted during the currency of declaration under section 3 of this Act.

**32. Extension of period to perform duties, etc.**--- Where, by any law, rule, regulation, order, contract or otherwise, any act or proceeding is directed or required to be done or undertaken in any court or office or any legal, regulatory, contractual or other obligation, by any person in the Province, that act, proceeding or obligation shall be considered as done or undertaken in due time if it is done or undertaken within thirty working days after the prescribed period, and the period to do or undertake such act, proceeding or obligation shall be deemed to be extended by such period.

**33. Exemption from procurement laws.**--- During the emergency period, where Government considers necessary, the procurement of certain goods, works or services, the Khyber Pakhtunkhwa Public Procurement Regulatory Authority Act, 2012 (Khyber Pakhtunkhwa Act No. XI of 2012) and the rules made thereunder shall not be applicable to any such procurements made by the procuring entities.

**34. Amendment of Schedule.**--- Chief Minister may, by notification in the official Gazette, amend any of the Schedules by amending or modifying any entry therein or omitting any entry therefrom.

**35. Authorization.**--- Government may, by notification in the official Gazette, authorize any of the Departments, attached departments, or any officer or authority to perform such functions and exercise such powers under this Act, as it deems necessary.

**36. Bar to action.**--- No order made under this Act shall be called in question in any court and no civil or criminal proceedings shall be instituted against any person for anything done in good faith against any person for any loss or damage caused to, or in respect of any property whereof possession has been taken under this Act.

**37. Confidentiality.**--- (1) Any information, collected or held by a public servant or by any other person, that identifies a person with an infectious disease, or have been positively tested for an infectious disease, his address or contacts, shall not be released or made public except under this section.

(2) The information under sub-section (1) may be released or made public:

- (a) with the consent of the identified person;
- (b) to a physician retained by the identified person;

- (c) to enforce the provisions of this Act and the rules;
- (d) to a medical practitioner for purposes of treatment of the person with an infectious disease;
- (e) to blood banks, schools and prisons; and
- (f) to the person responsible for a minor or a ward.

**38. Power to make rules.**--- Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

**39. Removal of difficulties.**--- Government may, by an order, provide for the removal of any difficulty which may arise in giving effect to the provisions of this Act.

**40. Over-riding effect.**--- The provisions of this Act shall be in addition to and not in derogation of any existing law for the time being in force and in case of any conflict the provisions of this Act shall have an overriding effect.

**41. Savings.**--- Notwithstanding anything contained in this Act, or any law for the time being in force, or any judgment, decree or order of any court, the notifications, orders or circulars issued, powers conferred, assumed or exercised by any person or authority or forum between the 1<sup>st</sup> March 2020 and the date this Act comes into force (both days inclusive) in connection with Covid-19 Pandemic, shall be deemed to have been validly initiated, conducted, done, taken, passed, made, issued, conferred, assumed or exercised under this Act and shall have effect accordingly and shall be deemed to have been validly issued or passed under this Act.

**42. Substitution of section 18 of the Khyber Pakhtunkhwa Act No. XXX of 2017.**--- In the Khyber Pakhtunkhwa Public Health (Surveillance and Response) Act, 2017 (Khyber Pakhtunkhwa Act No. XXX of 2017), for section 18, the following shall be substituted, namely:

**“18. Jurisdiction of the Court.**--- An offence punishable under this Act shall be tried by Special Magistrate, appointed under section 14A of the Code of Criminal Procedure, 1898 (Act No. V of 1898).”.

**43. Repeal of the Khyber Pakhtunkhwa Ord. No. XI of 2020.**--- The Khyber Pakhtunkhwa Epidemic Control and Emergency Relief Ordinance, 2020 (Khyber Pakhtunkhwa Ord. No. XI of 2020), is hereby repealed.

**Schedule-I**  
**[see section 2(b)]**  
**Designated Officer(s)**

<b>Serial No.</b>	<b>Nomenclature of the Office Description of Officer</b>	<b>Authorized under Sections</b>
1.	Secretary to the Government, Home and Tribal Affairs Department.	6(b),6(d),7,21(1)(a),23,24(3),26(g)
2.	Secretary to the Government, Health Department.	6(c),10, 21(1)(a),23,24(3)
3.	Secretary to the Government, Elementary and Secondary Education Department.	6(a),21(1)(a),23,24(3)
4.	Director General, Health Services, Khyber Pakhtunkhwa.	6(c),8, 21(1)(a),23,24(3)
5.	Commissioner of a Division.	9, 21(1)(a),23,24(3)
6.	Deputy Commissioner of the District.	7,8, 21(1)(a),24(3)
7.	Officers of District Administration.	12, 21(1)(a),23,24(3)

**Schedule-II**

[see section 26(d)]

**Monthly Consumption of Water for Houses:**

<b>Serial No.</b>	<b>Area per Sq. yds.</b>	<b>Suspension for prescribed period.</b>
1.	House upto 80 sq.yds.	No amount of Bill to be paid
2.	81-160 sq. yds.	25% amount of the Bill to be paid
3.	161-240 sq.yds.	50% amount of the Bill to be paid
4.	Above 240 sq.yds.	100% amount of the Bill to be paid

**Monthly Consumption of Water for Flats:**

<b>Serial No.</b>	<b>Area per Sq. yds.</b>	<b>Suspension for prescribed period.</b>
1.	Flats up to 800 Sq. ft.	No amount of Bill to be paid
2.	800 to 1000 Sq. ft.	25% amount of the Bill to be paid
3.	1000 – 1200 Sq. ft.	50% amount of the Bill to be paid
4.	Above 1200 Sq. ft.	100% amount of the Bill to be paid

Government of Pakistan  
Finance Division  
(Regulations Wing)

\*\*\*\*\*

F.No. 27(1)R-5/2012

Islamabad, the 1<sup>st</sup> July, 2016

**OFFICE MEMORANDUM**

Subject: **REVISION OF UNATTRACTIVE AREA ALLOWANCE**

The President has been pleased to sanction the revision of the rates of unattractive area allowance / compensatory allowance, allowed vide Finance Division's O.M No. F.5(4)R-13/80 dated 16-6-1980, to the Federal Government employees working in the specified areas, with effect from 1-7-2016, as under:-

Areas	Existing Rate	Revised Rate	
Chitral	Unattractive Area Allowance @ 50% of pay for woman and 40% of pay for man subject to following maxima:-		
	BPS	Maxima	
	1-15	Rs. 150/-	1700/-
	16	Rs. 250/-	3000/-
	17 and above	Rs. 300/-	4500/-
Kohistan	Unattractive Area Allowance @ 40% of pay subject to following maxima:-		
	1-15	Rs. 150/-	1500/-
	16	Rs. 250/-	2500/-
	17 and above	Rs. 300/-	4000/-
Dir and Merged Areas of Hazara and Mardan Division	Unattractive Area Allowance @ 20% of pay subject to following maxima:-		
	1-15	Rs. 75/-	1000/-
	16	Rs. 125/-	1500/-
	17 and above	Rs. 200/-	2000/-
Swat, Buner, Shangla, & Malakand Districts	Compensatory allowance @ 20% of pay subject to following maxima:-		
	1-15	75/-	1000/-
	16	125/-	1500/-
	17 and above	200/-	2000/-

2. All previous instructions/ O.Ms on the subject of unattractive area allowance/ compensatory allowance for above specified areas will be deemed to have been modified w.e.f. 1-7-2016 to the extent of instructions contained in this Office Memorandum.

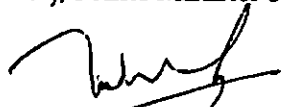
  
(Abdul Ghaffar Khan)  
Section Officer (R-5)

All Ministries and Divisions

(P.T.O)

Copy also forwarded for information to:

1. President's Secretariat (Public), Islamabad.
2. President's Secretariat (Personal), Islamabad.
3. Prime Minister's Office (Internal), Islamabad.
4. Prime Minister's Office (Public), Islamabad.
5. National Assembly Secretariat, Islamabad.
6. Senate Secretariat, Islamabad.
7. Election Commission of Pakistan, Islamabad.
8. Supreme Court of Pakistan, Islamabad.
9. Federal Shariat Court, Islamabad.
10. AGPR, Islamabad/Lahore/Peshawar/Karachi/Quetta.
11. Pakistan Mint, Lahore.
12. Auditor General of Pakistan, Islamabad.
13. Federal Public Service Commission, F-5/1, Agha Khan Road, Islamabad.
14. Capital Development Authority, Islamabad.
15. Cost Accounts Organization, Islamabad.
16. Military Accountant General, Rawalpindi.
17. Central Directorate of National Savings, Islamabad.
18. Chief Accounts Officer, M/o Foreign Affairs, Islamabad.
19. Financial Adviser and Chief Accounts Officer, Pakistan Railways, Lahore.
20. All Financial Advisers/Deputy Financial Advisers attached to Ministries/Divisions etc and all officers of Finance Division.
21. Secretariat Training Institute, Islamabad.
22. Federal Tax Ombudsman's Secretariat, Islamabad.
23. DG Post Offices, Islamabad.
24. Office of the Chief Commissioner, Islamabad.
25. Secretary, Wafaqi Mohtasib (Ombudsman)'s Secretariat, Islamabad.
26. Pakistan Atomic Energy Commission, Islamabad.
27. All Chief Secretaries/Finance Secretaries of the Government of Punjab/ Sindh/ Khyber Pakhtun Khwa/Baluchistan & Azad State of Jammu & Kashmir & Gilgit Baltistan.
28. Directorate General of Inspection & Training, Customs & Central Excise, 8th Floor, New Custom House, Karachi.
29. National Accountability Bureau, Islamabad.
30. Intelligence Bureau, Islamabad.
31. Member (Finance), KRI, P.O.Box No:1384, Islamabad.
32. Controller General of Accounts, Islamabad.
33. Web Administrator, Finance Division, Islamabad (for uploading at Finance Division's website i.e. [www.finance.gov.pk](http://www.finance.gov.pk))
34. Federal Tax Ombudsman's Secretariat, Islamabad.
35. Earthquake Reconstruction & Rehabilitation Authority (ERRA), Prime Minister's Secretariat (Public), Islamabad.

  
(Abdul Ghaffar Khan)  
Section Officer (R-5)





GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT  
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar

Phone No. 091-9221523

23.	Mr. Said Hussain Principal (BS-19)	DEO (Male) Khyber	His services are placed at the disposal of the Directorate of E&SE.
24.	Muhammad Uzair Ali (MC BS-19)	DEO (Male) Dir Lower	DEO (Male) Khyber (Vice No-23)
25.	Mr. Fareduallah Principal (BS-19)	DEO (Male) Orakzai	His services are placed at the disposal of the Directorate of E&SE.
26.	Mr. Atiq ur Rehman (MC BS-18)	Deputy DEO (Male) Karak	DEO (Male) Orakzai in OPS (Vice No-25)
27.	Mr. Bakht Zada Principal (BS-19)	DEO (Male) Ballagram	His services are placed at the disposal of the Directorate of E&SE.
28.	Mr. Aurangzeb (MC BS-18)	Deputy DEO (Male) Shangla	DEO (Male) Karak in OPS (Vice No-9)
29.	Mr. Tahir Shah (MC BS-18)	Deputy DEO (Male) Nowshera	DEO (Male) Kohistan Lower (AVP)
30.	Mst. Samina Illaf (MC BS-19)	Awaiting posting	DEO (Female) Ballagram (AVP)
31.	Mst. Naghmana Sardar (MC BS-19)	DEO (Female) Mansehra	DEO (Female) Kohistan Lower (AVP)
32.	Mst. Rehana Yasmin (MC BS-18)	Deputy DEO (Female) Kolai Pallas (Kohistan)	DEO (Female) Mansehra in OPS (Vice No-31)
33.	Mst. Asmat Ara (MC BS-19)	DEO (Female) Dir Lower	DEO (Female) Bajaur (AVP)
34.	Mst. Haleema Bibi Principal (BS-19)	DEO (Female) Chitral Lower	Her services are placed at the disposal of Directorate of E&SE.
35.	Mst. Habiba Bibi Principal (BS-19)	DEO (Female) Kohistan Upper	Her services are placed at the disposal of Directorate of E&SE.

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. District Education Officers (Male & Female) of the concerned district.
4. Director EMIS, E&SE Department with the request to upload the same on the official website of the department.
5. District Accounts Officers of the concerned district.
6. PS to Minister E&SE Khyber Pakhtunkhwa.
7. PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
8. Officers concerned.
9. Master file.

(SECTION OFFICER (Management Cadre)

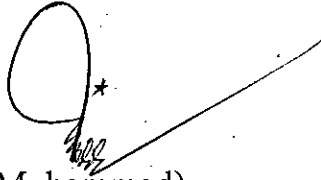
*[Handwritten Signature]*  
17/06/2023

21.11.2022

Clerk of learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for official respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today due to strike of lawyers. Adjourned. To come up for arguments on 13.12.2022 before the D.B.

SCANNED  
KPST  
Peshawar



(Mian Muhammad)  
Member (E)



(Salah-Ud-Din)  
Member (J)

13.12.2022

Appellant present in person.


Muhammad Jan learned District Attorney for official respondents present. Husband of the private respondent No.4 present.

SCANNED  
KPST  
Peshawar

Former made a request for adjournment on the ground that his counsel is busy in Hon'ble Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 23.12.2023 before D.B.



(Fareeha Paul)  
Member (E)

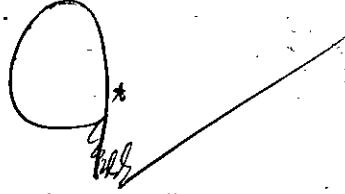


(Rozina Rehman)  
Member (J)

21.10.2022

Appellant in person present. Mr. Muhammad Jan, District Attorney for official respondents No. 1 to 3 present.

Appellant requested for adjournment on the ground that his counsel is not available today due to strike of lawyers. Adjourned. To come up for arguments before the D.B on 04.11.2022.



(Mian Muhammad)  
Member (E)



(Salah-ud-Din)  
Member (J)

04.11.2022

Appellant in person present.. Mr. Muhammad Riaz Khan Painsdakhel, Assistant Advocate General for official respondents No. 1 to 3 present.

Appellant requested for adjournment on the ground that his counsel is not available today due to strike of lawyers. Adjourned. To come up for arguments before the D.B on 21.11.2022.

(Mian Muhammad)  
Member (E)

(Salah-ud-Din)  
Member (J)

26.08.2022

Learned counsel for the appellant present. Mr. Fahim Khan Assistant alongwith Mr. Muhammad Adeel Butt, learned Additional Advocate General for official respondents No.1 to 3 present. Husband of private respondent No.4 present.

Learned Member (Judicial) Mrs. Rozina Rehman is on leave, therefore, arguments could not be heard. Adjourned. To come up for arguments on 21p.09.2022 before the D.B.

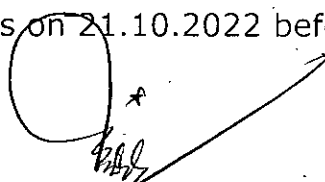


(Salah-Ud-Din)  
Member(J)

21.09.2022

Mr. Umer Farooq, Advocate, junior of learned counsel for the appellant present. Mr. Sultan Younis, Superintendent alongwith Mr. Asif Masood Ali Shah, Deputy District Attorney for official respondents No. 1 to 3 present. Husband of private respondent No. 4 also present.

Junior of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is indisposed today. Adjourned. To come up for arguments on 21.10.2022 before the D.B.



(Mian Muhammad)  
Member (Executive)



(Salah-Ud-Din)  
Member (Judicial)

16<sup>th</sup> June 2022

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG for respondents No.1 to 03 and Fahimullah, counsel for private respondent No.4 present.

Respondents have not submitted written reply/comments. Learned AAG seeks time for submission of written reply/comments: Last chance is give.<sup>n</sup> To come up for written reply/comments on 01.07.2022 before S.B.


  
(Kalim Arshad Khan)  
Chairman

01.07.2022

Counsel for the appellant present. Mr. Kabir Ullah Khattak, Additional Advocate General alongwith Naseer Ud Din, S.O Litigation for official respondents present. Syed Haider Khan Advocate for private respondent No. 4 present.

written reply/comments on behalf of respondent No. 1 to 4 submitted which is placed on file. A copy of the same is handed over to the learned counsel of the appellant.

To come up for rejoinder/arguments on 22.07.2022 before D.B.


  
(Fareeha Paul)  
Member (E)


22.07.2022

Appellant alongwith his counsel present.

Mr. Asif Masood Ali Shah, learned Deputy District Attorney for respondents present.

Former made a request for adjournment in order to prepare the brief of the case. Adjourned. To come up for arguments on 26.08.2022 before D.B.

  
(Fareeha Paul)  
Member (E)

  
(Rozina Rehman)  
Member (J)

12.05.2022

Appellant present through counsel.

Muhammad Adeel Butt, learned Additional Advocate General for respondents No.1 to 3 present. Counsel for private respondent No.4 present.

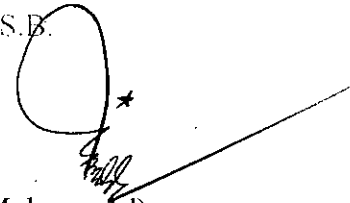
Reply on behalf of respondents was not submitted. Request for adjournment was made on behalf of respondents in order to submit reply/comments. Opportunity is granted. To come up for written reply/comments on 25.05.2022 before S.B.

  
(Rozina Rehman)  
Member (J)

25.05.2022

Learned counsel for the appellant present. Mr. Noor Zaman Khattak, District Attorney for official respondents No. 1 to 3 present. Mr. Sher Haider Khan, Advocate for private respondent No. 4 present.

Written reply/comments on behalf of official respondents No. 1 to 3 as well as private respondent No. 4 not submitted. Learned counsel for private respondent No. 4 committed at the Bar that written reply/comments on behalf of private respondent No. 4 will be submitted on next date. Learned counsel for the appellant did not object. Respondent department is also directed to submit written reply/comments on the next date positively. Adjourned. To come up for written reply/comments on 16.06.2022 before S.B.

  
(Mian Muhammad)  
Member (E)

Appeal No. 506/2022  
Mehrun Nisa vs Govt

11.04.2022

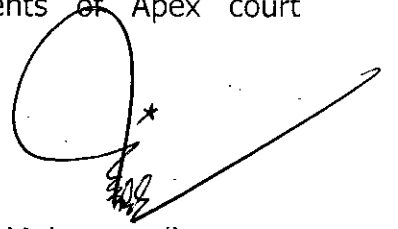
Counsel for the appellant present. Preliminary arguments heard.

Learned counsel for the appellant contended that the appellant is aggrieved of the impugned order dated 08.02.2022, whereby she was transferred from the post of DEO (OPS) (Female) District Lower Chitral to Directorate of Elementary and Secondary Education. Departmental appeal of the appellant dated 09.02.2022 was regretted on 07.04.2022. As the Service Tribunal was non-functional, writ petition was instituted in Honorable Peshawar High Court which was disposed off on the ground of jurisdiction under Article-212 of the Constitution. Moreover, the impugned order dated 08.02.2022 being violative of Posting/Transfer Policy may be set aside and the respondents be directed not to transfer the appellant from the post of DEO (Female) District Lower Chitral. The point raised in the service appeal is that private respondent No.4 belongs to teaching cadre, has been posted against the post reserved for Management Cadre Officers in violation of the service rules, Posting/Transfer Policy and judgement of the august High Court, Peshawar on cross cadre Posting/Transfer.

It was further argued that the appellant has been working as DEO since 10<sup>th</sup> April 2020 who has not completed normal tenure. It is however, observed that the requirement under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 is not fulfilled and the instant service appeal has been filed with reference to Posting/Transfer Policy of the Provincial Government. As such the Act shall always prevail over the policy.

The appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to respondents for submission of reply/comments. To come up for reply/comments on 12.05.2022 before S.B.

Additionally, an application for suspension of the impugned order has been submitted alongwith memorandum of appeal which cannot be entertained on the ground that the appellant was posted as DEO(Female) District Lower Chitral in Own Pay Scale i.e BS-19 and allowing her to stay would tantamount to the violation of judgements of Apex court discouraging the Posting on OPS basis.



(Mian Muhammad)  
Member(E)

Rs-600/-  
Appellant Deposited  
Security & Process Fee  
A. M. J. / 12/4/22

# KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

## CHECK LIST

Case Title: Mehrun NISI v/s Education Deptt.

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

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

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

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



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

SERVICE APPEAL NO. 506 /2022

**MEHRUN NISA**

**V/S**

**EDUCATION DEPTT:**

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Dated: \_\_\_\_/04./2022

**APPELLANT**

Through:

**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE**  
**0345-9383141**

①

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

Khyber Pakhtunkhwa  
Service Tribunal

APPEAL NO. 506 /2022

Diary No. 563

Date: 11-4-2022

Mst: Mehrun Nisa, (Management Cadre) (BPS-18),  
District Education Officer (F) District Lower Chitral, under transfer to the  
Directorate of E&SE Department, Peshawar for further posting.

..... **APPELLANT**

**VERSUS**

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 4- Mst: Haleema Bibi (BPS-19) (Teaching Cadre) under transfer against the post of DEO (F) Lower Chitral.

..... **RESPONDENTS**

**APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 08-02-2022 WHEREBY THE APPELLANT HAS BEEN TRANSFERRED FROM DISTRICT EDUCATION OFFICE FEMALE DISTRICT LOWER CHITRAL TO DIRECTORATE OF E&SE DEPARTMENT PESHAWAR IN UTTER VIOLATION OF TRANSFER POSTING POLICY AND AGAINST THE APPELLATE ORDER DATED 07.04.2022.**

**PRAYER:**

That on acceptance of this appeal the impugned orders dated 08-02-2022 and 07.04.2022 may very kindly be set aside and the respondents may kindly be directed not to transfer the appellant from the post of Distract Education Officer (Female) Lower Chitral. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

**R/SHEWETH:**

**ON FACTS:**

- 1- That appellant is the law abiding citizen of Pakistan and -serving the respondents department as Management Cadre officer. Copy of CNIC is attached as annexure ..... **A.**
- 2- That appellant while performing his duties in the respondent department quite efficiently and whole heartedly was transferred and posted as District Education Officer (F) Lower

Chitral vide notification dated 10.04.2020. Copy of the notification dated 10.04.2020 is attached as annexure .....B.

- 3- That in pursuance to the mentioned notification the appellant took over charge of his post on 11.04.2020. Copy of the charge certificate is attached as annexure ..... C.
- 4- That astonishingly vide impugned Notification dated 08.02.2022 the appellant was transfer from his post and his services was placed at the disposal of the Directorate of Elementary & Secondary Education Peshawar, whereas the private respondent No. 4 who belongs to the Teaching cadre was transferred and posted as District Education Officer (F) Chitral Lower vide the impugned notification in utter violation of the transfer posting policy of the provincial government and judgments of this august High Court. Copy of the impugned Notification dated 08.02.2022 is attached as annexure .....D.
- 5- That appellant feeling aggrieved from the impugned Notification dated 08.02.2022 submitted Departmental appeal before the appellate authority 09.02.2022. Copy of the departmental appeal is attached as annexure .....E.
- 6- That as the service tribunal was non-functional at the time when the impugned judgment notification was issued therefore the petitioner preferred a writ petition before the Peshawar High Court, Peshawar but the same was turn down on the ground that the appellant was supposed to wait till the completion of the statutory period of ninety days. Copy of the judgment dated 21.02.2022 is attached as annexure.....F.
- 7- That vide letter dated 07.04.2022 the departmental appeal of the appellant was regretted with no good reasons. Copy of the appellate order is attached as annexure .....G.
- 8- That the appellant having no other remedy but to file the instant writ petition on the following grounds amongst the others.

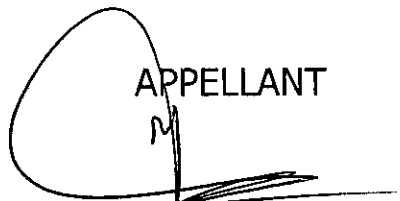
**GROUND:**

- A- That the impugned Notification dated 08.02.2022 issued by the respondent No.2 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside to the extent of appellant and private respondent No. 4.
- B- That the appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted

above and as such the respondents violated Article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973.

- C-** That the impugned Notification dated 08.02.2022 is against the clauses I & II of the transfer/posting policy of the provincial Government of Khyber Pakhtunkhwa. Copy of the Transfer posting policy is attached as annexure.....**H**
- D-** That the impugned Notification dated 08.02.2022 to the extent of appellant and private respondent No. 4 is also violative of the judgment of the august Peshawar High Court, Peshawar and issuance of the impugned Notification dated 08.02.2022 is amounting to contempt of court. Copy of the judgment of Peshawar high court Peshawar is attached as annexure.....**I**
- E-** That appellant belongs to the Management Cadre and the private respondent No. 4 belongs to the Teaching cadre, and the subject post is that of management cadre so how could a person belonging to the teaching cadre be posted on the post of management cadre.
- F-** That, the treatment meted out to the appellant is a clear violation of the Fundamental Rights of the appellant.
- G-** That the respondents acted in arbitrary and malafide manner by issuing the impugned Notification dated 08.02.2022 against the appellant.
- H-** That, the appellant has been discriminated by the respondents on the subject noted above and as such the respondents violated the Principle of Natural Justice.
- I-** That neither the impugned Notification dated 08.02.2022 has been issued in the public interest nor the same has been issued in exigencies of public service.
- J-** That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

Dated: 11.04.2022

APPELLANT  
  
**MEHRUN NISA**

**THROUGH:**  
**NOOR MOHAMMAD KHATTAK**



4

**KAMRAN KHAN**

**HAIDER ALI**

**&**

**UMAR FAROOQ MOHMAND  
ADVOCATES**



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

**SERVICE APPEAL NO. \_\_\_\_\_/2022**

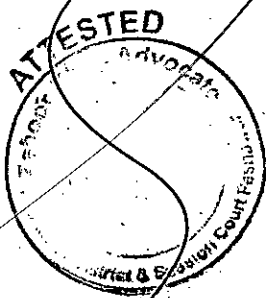
**MEHRUN NISA**

**VS**

**EDUCATION DEPTT:**

**AFFIDAVIT**

Stated on oath that the contents of the accompanying service appeal are correct to best of my knowledge and belief and nothing has been concealed from this Honorable Service Tribunal.



**DEPONENT**

**CERTIFICATE:**

Certify that no earlier service appeal has been filed by the appellant in the instant matter before this Honorable Service Tribunal.

**CERTIFICATION**

6

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

C.M NO: \_\_\_\_\_/2022  
IN  
SERVICE APPEAL No. \_\_\_\_\_/2022

**MEHRUN NISA VS EDUCATION DEPTT:**

**APPLICATION FOR SUSPENSION OF OPERATION OF**  
**THE IMPUGNED NOTIFICATION DATED 08.02.2022 &**  
**07.04.2022 TILL THE DISPOSAL OF THE ABOVE**  
**MENTIONED APPEAL**

**R/SHEWETH:**

- 1- That the above mentioned appeal along with this application has been filed the appellant before this august service Tribunal in which no date has been fixed so far.
- 2- That appellant filed the above mentioned appeal against the impugned notification dated 08.02.2022 whereby the appellant has been transferred from District Education Office (F) District Lower Chitral to Directorate of E&SE Department Peshawar.
- 3- That all the three ingredients necessary for the stay is in favor of the appellant.
- 4- That the impugned order dated 08.02.2022 had been issued by the respondents in utter disregard of law and prevailing Rules.

It is therefore, most humbly prayed that on acceptance of this application the operation of the impugned Notification dated 08.02.2022 may very kindly be suspended till the disposal of the above mentioned service appeal.

DATED:

APPLICANT  
M  
MEHRUN NISA

Through:

NOOR MOHAMMAD KHATTAK  
ADVOCATE, HIGH COURT,  
PESHAWAR

ANNEX - A

7

**PAKISTAN** National Identity Card  
ISLAMIC REPUBLIC OF PAKISTAN

Name  
Mehrun Nisa

Husband Name  
Ihtisham Ul Haq

Gender Country of Stay  
F Pakistan

Identity Number Date of Birth  
17201-2057953-0 04.02.1980

Date of Issue Date of Expiry  
24.12.2019 24.12.2029

Holder's Signature

17201-2057953-0

گشردہ کارڈ ملنے پر قریبی لیڈ بکس میں ڈال دیں

504481038630  
103-80 210063

Registrar General of Pakistan

ALL TESTED



ANNEX

B

8

BETTER COPY

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT  
Opposite M:A's hostel, Civil Secretariat, Peshawar

Dated Peshawar the April 10<sup>th</sup> 2020

## NOTIFICATION:

**No. SO(S/F)E&SED/1-3/2019/promotion/BS-18 to BS-19 MC:** in continuation with the department notification of even number dated 27.05.2019, the posting/transfers of the following management cadre officers (Female) are hereby ordered, in the public interest with immediate effect.

S.No	Name	From	To
1.	Mst. Asmat Ara Qureshi (MC BS-19)	Unadjusted	DEO (F) Upper Kohistan (against vacant post)
2.	Mst. Dilshad Begum (MC BS-19)	DEO (F) Swat	DEO (F) Dir Upper (Vice Sr # 19)
3.	Mst. Parveen Begum (MCBS-19)	DEO (F) Hangu	DEO (F) Hangu (already occupied)
4.	Mst. Maghmana Sardar (MC BS-19)	DEO (Female) Manshera	DEO (F) Manshera (already occupied)
5.	Mst. Bibi Rizwana (MC BS-19)	Unadjusted	DEO (F) Kohat (against vacant post)
6.	Mst. Farzana Sardar (MC BS-19)	Unadjusted	DEO (F) mardan (Vice Sr # 9)
7.	Mst. Ulfat Begum (MC BS-19)	DEO (F) Charsadda	DEO (F) Peshawar (Vice Sr# 8).
8.	Mst. Samina Ghani (MC BS-19)	DEO (F) Peshawar	DEO (F) Swabi (Vice Sr#17)
9.	Mst. Shamim Akhtar (MC BS-19)	DEO (F) Mardan	DEO (F) Swat (vice Sr#2)
10.	Mst. Rhena Yasmeen (MC BS-19)	DEO (F) Abbottabad	Services placed at the disposal of directorate
11.	Mst. Syed Anjum (MC BS-19)	DEO (F) D.I khan	DEO 9F) D.I Khan (already occupied)
12.	Mst. Zaib un Nisa (MC BS-19)	DEO (F) Karak	DEO (F) karak (Already occupied)
13.	Mst. Surrya Begum (MC BS-19)	Unadjusted	DEO (F) Bannu by relieving DDEO (F) of the additional charge
14.	Mst. Zuhra begum (MC BS-19)	DEO (F) Battagram	DEO (F) Battagram (already occupied)
15.	Mst. Sabira Parveen (MC BS-19)	DEO (F) Tank	DEO (F) Lakki Marwat (Vice Sr# 16)
16.	Mst. Azra Bibi (MC BS-19)	DEO (F) Lakki Marwat	DEO (F) Tank (Vice Sr# 15)
17.	Mst. Sofia Tabasum (MC BS-19)	DEO (F) Swabi	DEO (F) Charsadda (Vice Sr#7)

**CONSEQUENTIAL TRANSFERS/ADJUSTMENTS**

18.	Mst. Zubaida Khattak (MC BS-18)	DEO 9F) Shangla (OPS)	DEO (F) Lower Kohistan OPS alongwith additional charge of DEO (F) Kohat
19.	Mst. Habiba (TC BS-19)	DEO (F) Dir Upper	Principal (BS-19) GGHSS Dir

~~ATTESTED~~

PRINCIPAL, GOVERNMENT ELEMENTARY AND SECONDARY EDUCATION OFFICE,  
Opposite J.P.A's Hospital, Civil Secretariat, Islamabad

NOTIFICATION

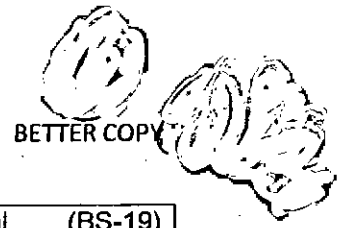
No. SO/SCE/SEDA-2019/Promotion/BS-18 to BS-19/1617  
The Department notification of even number, dated 27.03.2019 is hereby cancelled in view of the following Management Cadre Officers (Female) are hereby promoted with immediate effect.

Sr	Name	FROM	TO
1.	Mrs. Asma Azeem Qureshi (MC BS-19)	Unadjusted	DEO (Female) District (General Education)
2.	Mrs. Dilshad Begum (MC BS-19)	DEO (F) SMT	DEO (F) District (General Education)
3.	Mrs. Parveen Begum (MC BS-19)	DEO (F) Head	DEO (F) District (General Education)
4.	Mrs. Najma Sarfaraz (MC BS-19)	DEO (Female) Manager	DEO (Female) District (General Education)
5.	Mrs. Bibi Razwana (MC BS-19)	Unadjusted	DEO (Female) District (General Education)
6.	Mrs. Farzana Sarfaraz (MC BS-19)	Unadjusted	DEO (Female) District (General Education)
7.	Mrs. Hilar Begum (MC BS-19)	DEO (Female) Manager	DEO (Female) District (General Education)
8.	Mrs. Samina Ghani (MC BS-19)	DEO (Female) Manager	DEO (Female) District (General Education)
9.	Mrs. Shamim Akhter (MC BS-19)	DEO (Female) Manager	DEO (Female) District (General Education)
10.	Mrs. Rabana Yasmeen (MC BS-19)	DEO (Female) Manager	DEO (Female) District (General Education)
11.	Mrs. Syeda Anjum (MC BS-19)	DEO (Female) Manager	DEO (Female) District (General Education)
12.	Mrs. Zahra Anjum (MC BS-19)	DEO (Female) Manager	DEO (Female) District (General Education)
13.	Mrs. Samina Begum (MC BS-19)	Unadjusted	DEO (Female) District (General Education)
14.	Mrs. Zahra Begum (MC BS-19)	Unadjusted	DEO (Female) District (General Education)
15.	Mrs. Sabina Parveen (MC BS-19)	DEO (Female) Manager	DEO (Female) District (General Education)
16.	Mrs. Azra Bibi (MC BS-19)	DEO (Female) Manager	DEO (Female) District (General Education)
17.	Mrs. Samina Begum (MC BS-19)	DEO (Female) Manager	DEO (Female) District (General Education)
18.	Mrs. Samina Begum (MC BS-19)	DEO (Female) Manager	DEO (Female) District (General Education)
19.	Mrs. Samina Begum (MC BS-19)	DEO (Female) Manager	DEO (Female) District (General Education)

CONSISTENT WITH THE PROVISIONS OF THE GOVERNMENT OF PUNJAB, 1973.

*(Handwritten signature)*

9



20.	Mst. Bibi Haleema (TC BS-19)	DEO (F) Chitral lower	Principal (BS-19) GGHS Broze, Chitral lower (against vacant post)
21.	Mst. Attia Sultana (TC BS 19)	DEO (F) nowshera	Services placed at the disposal fo directorate of E&SE
22.	Mst. Fahmida (TC BS-19)	DEO (F) Malakand	Services placed at the disposal fo directorate of E&SE
23.	Mst. Mehar un nisa (MC BS-18)	DDEO (F) Chitral lower	DEO (F) Chitral Lower (Vice Sr # 20 in OPS)
24.	Mst. Abida Parveen (MC BS -18)	DDEO (F) Swabi	DEO (F) Nowshera (vice Ssr 21 in OPS)

2. No TA/DA will be allowed for joining their duties.

SECRETARY  
ELEMENTARY & SECONDARY  
EDUCATION DEPARTMENT

**Endst : of even No. & Date.**

Copy forwarded to the:

1. Accountant General, Khyber pakhtunkwa, Peshawar
2. Director E&SE Khyber Pakhtunkhwa, Peshawar
3. Director DCTE, Khyber Pakhtunkhwa, Peshawar
4. Director PITE Khyber Pakhtunkhwa, Peshawar
5. Deputy Commissioners concerned.
6. District education officer (M/F) concerned.
7. District Accounts officer concerned.
8. PS to principal secretary to Chief minister, Khyber Pakhtunkhwa, Peshawar
9. PS to Minister for E&SE Khyber Pakhtunkhwa, Peshawar
10. PS to Secretary E&SE Department
11. Incharge EMIS, E&SE Department for uploading at official wbsent at the earliest.
12. Officers concerned.
13. Office order file.

**(Abdus Salam)**

**Section Officer (S/F)**

**ATTESTED**

1	1000	1000	1000
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9	1000	1000	1000
10	1000	1000	1000

Final Statement of Assets and Liabilities

Copy to be made of this statement and to be retained in the files of the Director of the Bureau of the Census, Washington, D.C. The Director of the Bureau of the Census is authorized to make such copies as may be necessary for the purpose of the Census of the United States, and to disseminate such copies as may be necessary for the purpose of the Census of the United States.

Director of the Bureau of the Census  
Washington, D.C.

*[Handwritten signature]*  
DIRECTOR

10

BETTER COPY

**GOVERNMENT OF KHYBER PAKHTUNKHWA ELEMENTARY AND SECONDARY  
EDUCATION DEPARTMENT FEMALE CHITRAL**

**LOWER.**

**PHONE NO: 0943-412047. E.Mail. deofchitral@gmail.com.**

**CERTIFICATE OF TRANSFER OF CHARGE**

1-Certified that i have on the fore/afternoon of this day respectively made over and receive charge of DEO (Female) Chitral Lower vide Secretary Elementary & Secondary Education Department Khyber Pakhtunkhwa Peshawar order No. SO (SP) E&SED/1-3/2019/Promotion/BS-18 to BS-19 MC dated 10th April, 2020.

2- Particulars of cash and important secret and confidential documents handed over are noted on the reverse; -

Signature of relieved

Government servant- BIBLHALIMA NAZIR

Station:-DEO (F) Chitral Lower.

Designation: - DEO (F)

Signature of relieving

Government servant: (MEHR UN NISA)

Designation: DEO (F)

Dated:

No.

C-2/EB (Female)

Dated

/2020.

Copy forwarded to the:

1. Secretary E&SE Department Khyber Pakhtunkhwa Peshawar for information please.
2. Director E&SE Khyber Pakhtunkhwa Peshawar for information
3. Deputy Commissioner Chitral Lower for information please.
4. District Monitoring Officer Chitral for information please.
5. District Accounts Officer, Chitral for information please.

District Education

(Female) Chitral Lower.

**ATTESTED**

GOVERNMENT OF UTAH SUPERIOR COURT

ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT

LOWER

PHONE NO. 801/534-2074 E-MAIL: [edcentral@utah.gov](mailto:edcentral@utah.gov)

CITIZEN CALL OR TRANSDISTRICT CHARGE

1. Certified that the above information is true and correct as received from the complainant.

2. Particulars of case are important, serious and demanding. Particulars are noted on the reverse.

State of Utah

Government of Utah - EDUCATION DEPARTMENT

Station: DE-014) Child Welfare

Deputy Director

DE-014

Deputy Director

Government of Utah - EDUCATION DEPARTMENT

Date:

Deputy Director

DE-014

C-2 BS (Remile)

Copy forwarded to:

- 1. Secretary, DE-014 Department of Education
- 2. Director, DE-014 Department of Education
- 3. Deputy Commissioner, Child Welfare
- 4. District Monitoring Officer, Child Welfare
- 5. District Accounts Officer, Child Welfare

District Monitoring Officer

Handwritten signature

ANNEX D

BETTER COPY

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT  
Opposite M:A's hostel, Civil Secretariat, Peshawar

Dated Peshawar the

Feb 8, 2022

NOTIFICATION:

No. SO(S/F)E&SED/4-5/2021/Posting/Transfer: the following posting/transfers are hereby ordered with immediate effect, in the public interest;

S.No	Name	From	To
1.	Muhammad Sultan Principal (BS-19)	GHSS Ghaffanai, Mohmand	DEO (Male) Kurram (AVP)
2.	Mst. Haleema Bibi Principal (BS-19)	GGHS broze Chitral lower	DEO (F) Lower Chitral (Vice Sr No. 3)
3.	Mst. Mehr-un-nisa (MC BS-18)	DEO (F) Lower Chitral (OPS)	Report to directorate of E&SE Khyber pakhtunkhwa.
4.	Mst. Rukhsana Rahim (MC BS-18)	Deputy DEO (Female) Upper Kohistan	DEO (Female) malakand (Vice Sr. No. 5)
5.	Mst. Naheed Anjum (MC BS-19)	DEO (Female) malakand	Report to directorate of E&SE Khyber pakhtunkhwa.
6.	Mr. Said Hussain Principal (BS-19)	GHS Jalaka Mela Orakzai	DEO (M) Khyber (Vice Sr # 7)
7.	Mr. Nisar Muhammad Principal (BS-19)	DEO (Malakand/Khyber)	GHSS Ghallanai Mohmand (Vice Sr No. 1)
8.	Mr. Amir Muhammad principal (BS-18)	Awaiting posting	DEO (Male) South Waziristan in OPS (Vice Sr. No 9)
9.	Mr. Qadeem Khan Principal (BS-19)	DEO (M) South Waziristan	GHS Jalaka Mela, Orakzai (Vice Sr. No. 6)

SECRETARY TO THE GOVT; OF KHYBER PAKHTUNKHWA.

Copy forwarded to the:

1. Accountant Genera, Khyber Pakhtunkhwa, Peshawar
2. Director E&SE Khyber Pakhtunkhwa Peshawar for information
3. District Education officers (male/Female) concerned.
4. Director EMIS, E&SE Department with the request to upload the same on the official website of the department.
5. District Accounts Officers concerned.
6. PS to Secretary E&SE Department, Khyber pakhtunkhwa
7. Officers concerned.
8. Master file.

**ATTESTED**

(HAFEEZ UR REHMAN SHAI  
SECTION OFFICER (MANAGEMENT CADR



ANNEX E

12

To

The Director,  
E&SE Khyber Pakhtunkhwa Peshawar.

Subject: DEPARTMENTAL APPEAL AGAINST THE TRANSFER ORDER  
NO. SO(MC)E&SED/4-16/2021/POSTING/TRANSFER/TC DATED  
08-02-2022 .

Respected Sir,

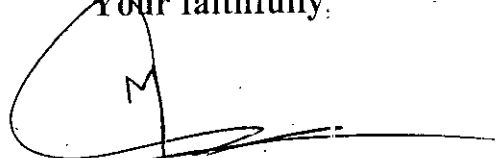
With the great reverence & respect it is stated that the under signed is working against the post of District Education officer (Female) Lower Chitral since 10-04-2020 with full devotion & commitment & even a single public complaint has not been filed against the under signed till date.

Astonishingly, I came to now that vide order dated 08-02-2022, I have been transferred from the post of District Education Officer (Female) Lower Chitral & my services have been placed at the disposal of the Directorate of E&SE. However, Teaching Cadre Officer namely Haleema Bibi (BS-19) Principal GGHS Broze District Lower Chitral has been adjusted against the post in question which is against the Rules & policy in vogue. Moreover, various Court of Law including Honorable Peshawar High Court Peshawar & Khyber Pakhtunkhwa Service Tribunal Peshawar have been passed multiple Judgments, whereby, the Respondent Department has been restrained for posting of Teaching Cadre Officer against the Management Cadre post.

In view of forgoing discussion, it is humbly requested that the under signed may graciously be retained against the post of District Education Officer (Female) Chitral Lower being a Management Cadre officer in the interest of justice please.

Dated: 09/02/2022.

Your faithfully,



MEHRUN NISA BS-18 (MC)

District Education Officer (F) Lower Chitral

Mobile .0320-9091135

o/c

1682

9.2.2022

~~ATTESTED~~

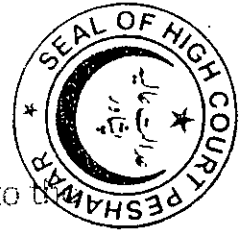


ANNEX F

13

**BEFORE THE PESHAWAR HIGH COURT, PESHAWAR**

**WRIT PETITION NO. \_\_\_\_\_ / 201**



Mst: Mehrun Nisa, (Management Cadre) (BPS-18),  
District Education Officer (F) District Lower Chitral, under transfer to the  
Directorate of E&SE Department, Peshawar for further posting.

**PETITIONER**

**VERSUS**

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 4- Mst: Haleema Bibi (BPS-19) (Teaching Cadre) under transfer against the post of DEO (F) Lower Chitral.

**RESPONDENTS**

**WRIT PETITION UNDER ARTICLE 199 OF THE  
CONSTITUTION OF ISLAMIC REPUBLIC OF  
PAKISTAN 1973 AS AMENDED UP TO DATE**

**R/SHEWETH:**  
**ON FACTS:**

- 1- That petitioner is the law abiding citizen of Pakistan and serving the respondents department as Management Cadre officer. Copy of CNIC is attached as annexure ..... A.
- 2- That petitioner while performing his duties in the respondent department quite efficiently and whole heartedly was transferred and posted as District Education Officer (F) Lower Chitral vide notification dated 10.04.2020. Copy of the notification dated 10.04.2020 is attached as annexure ..... B.
- 3- That in pursuance to the mentioned notification the petitioner took over charge of his post on 11.04.2020. Copy of the charge certificate is attached as annexure ..... C.
- 4- That astonishingly vide impugned Notification dated 08.02.2022 the petitioner was transfer from his post and his services was placed at the disposal of the Directorate of Elementary & Secondary Education Peshawar, whereas the private respondent No. 4 who belongs to the Teaching cadre was transferred and posted as District Education Officer (F) Chitral Lower vide the impugned notification in utter violation of the transfer posting policy of the provincial government and

**ATTESTED**  
M. J. J. J.  
Peshawar High Court

~~ATTESTED~~

14



# PESHAWAR HIGH COURT, PESHAWAR

## FORM OF ORDER SHEET



Date of Order or Proceedings 1	Order of other Proceedings with Signature of Judge. 2
21.02.2022	<p><u>W.P No. 547-P/2022.</u></p> <p><b>Present:</b></p> <p style="text-align: center;"><b>Mr. Kamran Khan, Advocate, for the petitioner.</b></p> <p style="text-align: center;">*****</p> <p><b><u>SYED ARSHAD ALLI, J.</u></b> Mst. Mehrun Nisa, the petitioner through the instant petition challenges the notification dated 08.02.2022; whereby she being DEO (F) at Lower Chitral was transferred to Directorate of E&amp;SE Khyber Pakhtunkhwa.</p> <p><u>2.</u> The learned counsel for the petitioner has contended that although the present petitioner is a civil servant, however, owing to the retirement of Chairman Khyber Pakhtunkhwa Service Tribunal, the Service Tribunal is dysfunctional; hence the present petitioner cannot approach to the Service Tribunal, therefore, has filed this petition challenging her premature transfer, through the impugned order.</p> <p><u>3.</u> The learned counsel for the petitioner has further contended that the respondent who has been posted against the post of DEO (F) Lower Chitral belongs to teaching cadre and under the relevant rules, a teacher cannot hold the office which is meant for management cadre and secondly the impugned transfer of the</p>

3...

*Maj*  
**ATTESTED**  
EXAMINER  
Peshawar High Court

~~ATTESTED~~



petitioner is premature as she has not completed her tenure of three years against the said post. The learned counsel has relied upon the judgment of this Court passed in W.P No.503-P/2022 dated 11.02.2022 wherein a writ petition of a civil servant was maintained on the aforesaid grounds.

4. Arguments heard and record of the case was perused.

5. Admittedly, the present petitioner is a civil servant and under Section 10 of the Khyber Pakhtunkhwa Civil Servant Act, 1973 she is supposed to serve anywhere in the province against the relevant post. The said transfer and posting order though can be challenged before the appropriate forum but on a very limited ground i.e. lack of jurisdiction of the authority which has passed the order or being tainted with mala-fide.

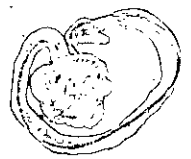
6. We have perused the record according to which the present petitioner was appointed against the said post on 10.04.2020 wherefrom she was transferred through the impugned order dated 08.02.2022 and thus she held the said post for sufficient time. Indeed, she has no vested right to hold this post for three years as per alleged policy of the Provincial Government. Indeed, it is the competent authority who shall decide the posting and transfer of the civil servant keeping in view the exigency of her or his service and public interest. The Courts have very less jurisdiction to interfere in the same

ATTESTED

EXAMINER  
Peshawar High Court

~~ATTESTED~~

16



i.e. either the impugned order has been passed by incompetent authority or the said order of posting is based on mala-fide. Both the elements are missing in this case.

7. Even otherwise, when the impugned order was passed on 08.02.2022, against which the present petitioner has allegedly filed a representation which has not so far been decided, therefore, under Section 4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974 she has to wait for ninety days to file the petition before the worthy Khyber Pakhtunkhwa Service Tribunal; hence this petition at this stage is otherwise premature.

8. Indeed, the present petitioner is a civil servant and under Article 212 of the Constitution of Islamic Republic of Pakistan, the jurisdiction of this Court is barred to entertain any petition filed by a civil servant for enforcement of his/her terms and conditions. We have also perused the judgment referred by the learned counsel for the petitioner. The facts of the said case are distinguishable.

9. In view of the above, we find no merit in this petition which is accordingly dismissed.

**Announced:**  
21.02.2022

JUDGE

JUDGE

23 FEB 2022

\*Haider Shah\* SSS DB.

Hon'ble Mr. Justice Syed Arshad Ali & Hon'ble Mr. Justice Muhammad Faheem Wali

**ATTESTED**

ANNEX

G

17



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT  
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar  
Phone No. 091-9223586

No. SO(MC) E&SED/4-16/2022/PT/Appeal  
Dated Peshawar the April 07<sup>th</sup>, 2022.

To

Mst. Mehr-un-Nisa,  
Ex-DEO (Female) Chitral Lower  
Now at the disposal of Directorate of E&SE,  
Khyber Pakhtunkhwa.

Subject: - DEPARTMENTAL APPEAL AGAINST POSTING/TRANSFER.

I am directed to refer to your Departmental Appeal dated 09-02-2022 on the subject noted above and to state that your request for cancellation of posting/transfer notification was examined / processed; however, regretted.

*Junaid Shah*  
7/4/22

(JUNAID SHAH)

SECTION OFFICER (Management Cadre)

Cc to the: -

- PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.

*Junaid Shah*  
7/4/22

SECTION OFFICER (Management Cadre)



GOVERNMENT OF NWFP  
ESTABLISHMENT & ADMINISTRATION  
DEPARTMENT  
(Regulation Wing)

POSTING / TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT

- i) All the posting/transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants
- ii) All Government servants are prohibited to exert political, Administrative or any other pressures upon the posting/transfer authorities for seeking posing/transfers of their choice and against the public interest.
- iii) All contract Government employees appointed against specific posts, can not be posted against any other post.
- iv) The normal tenure of posting shall be three years subject to the condition that for the officers/officials posted in unattractive areas the tenure shall be two years and for the hard areas the tenure shall be one year. The unattractive and hard areas will be notified by the Government.
- v) While making postings/transfer from settled areas to FATA and vice-versa, specific approval of Governor, NWFP needs to be obtained
- vi) While making postings/transfers of officers/officials up to BS-17, from settled areas to FATA and vice-versa approval of the Chief Secretary NWFP needs to be obtained. Whereas, in case of posting/transfer of officers in BS-18 and above, from settled areas to FATA and vice versa, specific approval of the Governor NWFP shall be obtained.
- vi (a) All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for atleast eighteen months in each grade. This should start from senior most scales/grades downwards in each scale/grade of each cadre.
- vii) Officers may be posted on executive/administrative posts in the Districts of their domicile except District Coordination Officers (D.C.Os) and DPOs/Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where the Police Station (Thaana) of his area/residence is situated.
- viii) No posting/transfers of the officer's/officials on detailment basis shall be made.
- ix) Regarding the posting of husband/wife, both in Provincial services, efforts where possible would be made to post such persons at one station subject to the public interest.
- x) All the posting/transferring authorities may facilitate the posting/transfer of the unmarried female government Servants at the station of the residence of their parents.

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. Added vide Urdu circular letter No. SOR-VI(E&AD)1-4/2003, dated 21-09-2004

NOTIFIED

114.	Do	Esa Khan	Yar Mohammad	GHS Sro Kalay	5139-5197 / 25-11-08
115.	Do	Ghani Ur Rahman	Naseer Khan	GHS Sro Kalay	5139-5197 / 16-09-08
116.	Do	Akhtar Jan	Atta Khan	GHSS Manga Dargai	5139-5197 / 25-11-08
117.	Do	Mohammad Zeb	Alam Zeb	GHS Gul Khitab	5139-5197 / 25-11-08
118.	Do	S. Shams Ul Arifien	S. Amir Badshah	GHSS Nisatta	5139-5197 / 25-11-08
119.	Do	Gulzar Mohammad	Fazal Mohammad	GHS Mirzai	5139-5197 / 25-11-08
120.	Do	Khushheed Ahmad	Fazal Manan	GHS Bari Band	5139-5197 / 25-11-08
121.	Do	Abdul Haye	Abdul Karim	GHS Hajizai	5139-5197 / 16-09-08
122.	Do	Ahwar Khan	Mardan Shah	GHS Mardhand	5139-5197 / 16-09-08
123.	Do	Amjad Ali	Gul Ghani	GHS Katozai	5139-5197 / 25-11-08
124.	Do	Mohammad Ziaullah	Rahmanullah	GHS Turlandi	5139-5197 / 16-09-08
125.	Do	Khaista Rahman	Shams Ur Rahman	GHS Sro Kalay	5139-5197 / 16-09-08
126.	Do	Fairoz Shah	Fazle-Wahid	GHS Prang	5139-5197 / 25-11-08
127.	Do	Mohammad Arshad Hussain	Mukhtiar Ahmad	GHS Ambadher	5139-5197 / 25-11-08
128.	Do	S. Khalid Mahmood	Fazal Mahmood	GHS Shakar Dhand	5139-5197 / 16-9-08
129.	Do	Umar Farooq	Noor Mohammad	GHS Attaki	5139-5197 / 16-09-08

**Mardan**

130.	Mardan	Mohammad Qayyum	Mir Akbar Khan	GHS Sangao	5139-5197 / 16-9-08
131.	Do	Imran Ali	Aziz ur Rahman	GHSS Baghicha Dheri	5139-5197 / 16-9-08
132.	Do	Mohammad Arif	Fazle Akbar	GHS Babozai (KATG)	5139-5197 / 16-9-08
133.	Do	Irfan Bashir	Bashir Ahmad	GHS Garyala	5139-5197 / 16-9-08
134.	Do	Mohammad Abrar	Abdul Janil	GHS Rustam	5139-5197 / 16-9-08
135.	Do	Mohammad Ilyas	Tasleem Gul	GHS Toru	5139-5197 / 16-9-08
136.	Do	Mohammad Shahzad Khan	Bahadar Khan	GHS Sawal Dher	1876-88 / 24-10-08
137.	Do	Zubair Shah	Shah Said	GHS Machi	5139-5197 / 16-9-08
138.	Do	Aurangzeb	Ain ud Din	GHS Dakki	5139-5197 / 25-11-08
139.	Do	Saeed Akbar	Shams ul Akbar	GMS Garyala Bala	5139-5197 / 25-11-08
140.	Do	Mohammad Abid	Mohammad Afzal	GHS Jamal Garhi	5139-5197 / 25-11-08
141.	Do	Mohammad Asif	Zahir Shah	GHS Fatima	5139-5197 / 25-11-08
142.	Do	Shah E Rome	Jawad Khan	GHS Nasir Killi	5139-5197 / 25-11-08
143.	Do	Mohammad Adil	Said Mohammad	GHSS Shahbaz Garhi	5139-5197 / 25-11-08
144.	Do	Irfan Ali	Sabz Ali	GHS Baringan	5139-5197 / 16-9-08
145.	Do	Ahmad Yar	Noresh Khan	GHS Khair Abad	5139-5197 / 16-9-08
146.	Do	Mohammad Ashraf Ali	Khan Badshah	GHS Gumbat	5139-5197 / 25-11-08
147.	Do	Ijaz Khan	Mazullah Khan	GHS Badar Banda	5139-5197 / 25-11-08
148.	Do	Shah Nawaz	Mohammad Rafiq	GHS Toru Maira	5139-5197 / 25-11-08

**Swabi**

149.	Swabi	Noor ul Islam	Shud Mohammad	GHS Jalbai	5139-5197 / 25-11-08
150.	Do	Amjad Ali Khan	Ahmad Ali Khan	GHS Jhanda	5139-5197 / 25-11-08
151.	Do	Arif Ali	Sher Nawaz Khan	GHS Pehor Hemlet	5139-5197 / 25-11-08
152.	Do	Sultan Mohammad	Muntazir Khan	GHS Kotha	5139-5197 / 25-11-08
153.	Do	Syed ul Amin	Wilayat Shah	GHS Dobian	5139-5197 / 16-9-08
154.	Do	Mohammad Tahir	S. Gaffar Shah	GHS Jehangira	5139-5197 / 16-9-08
155.	Do	Liaquat Zaman	Shams ur Rahman	GHSS Bam Khel	5139-5197 / 16-9-08
156.	Do	Shah Jehan	Mohammad Amin	GHS Beeka	5139-5197 / 25-11-08
157.	Do	Khalid Umar	Mohammad Umar	GMS Seri Umar Zai	5139-5197 / 25-11-08
158.	Do	Zakirullah	Ali Bur Khan	GHS Beeka	5139-5197 / 25-11-08
159.	Do	Baroz Khan	Amir Rehman	GHS Beeka	5139-5197 / 25-11-08
160.	Do	Bakhtiar Ali	Mohammad Bashir	GHSS Zaida	5139-5197 / 25-11-08
161.	Do	Bakht Zamin Khan	Mohammad Sher	GHS No.2 Tor Dher	5139-5197 / 16-9-08
162.	Do	Zahoor Khan	Sameen Khan	GHS Jalsai	5139-5197 / 16-9-08
163.	Do	Kifyatullah	Wisak Khan	GHS Jalsai	5139-5197 / 16-9-08
164.	Do	Hasen ul Wahab	Rahm ul Wahab	GHS Jalsai	5139-5197 / 25-11-08
165.	Do	Ajmal Khan	Sher Afzal Khan	GHS Kunda	5139-5197 / 25-11-08
166.	Do	Abdul Hayat	Said Mahmood	GHS Manki	5139-5197 / 16-9-08
167.	Do	Abdul Ghaffar	Abdus Sattar	GMS Sar Koi Bala	5139-5197 / 25-11-08
168.	Do	S. Sajjad Ali Shah	S. Hidayatullah Shah	GHS No.1 Tor Dher	5139-5197 / 16-9-08
169.	Do	Mohammad Shoaib	Rawail Gul	GHS No.1 Tor Dher	5139-5197 / 25-11-08
170.	Do	Wakil Khan	Mohammad Amir	GHS Jalbai	5139-5197 / 25-11-08
171.	Do	Bashir Ahmad	Maqbool Ahmad	GMS Ala Dher	5139-5197 / 25-11-08
172.	Do	Sadar Iqbal	Qamar Zaman	GHS Permoli	5139-5197 / 25-11-08
173.	Do	Zahoor Ahmad	Huzratullah	GHS Iluzar	5139-5197 / 25-11-08
174.	Do	Ibrahim Khalilullah	Rahimullah	GHS Kahabat	5139-5197 / 25-11-08

LIST OF DB – II CASES FIXED BEFORE ROZINA REHMAN, MEMEBR (JUDICIAL) &  
MS. FAREEHA PAUL, MEMBER (EXECUTIVE)

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

09/01/2023 (MONDAY)

ARGUMENTS

S.NO.	APPEAL NO.	APPELLANT NAME	DEPARTMENT	NEXT DATE
1	710/17	✓ M. SADIQ	POLICE	Heard
2	1173/18	✓ DR. AFTAB	HEALTH	
3	190/19	✓ IMRAN AHMAD	HEALTH	
4	607/19	✓ ABID HUSSAIN	POLICE	
5	1081/19	✓ M. ZEESHAN	INDUST	
6	1216/19	✓ SHER WALI KHAN	POLICE	
7	1597/19	SALEEM SHAHZAD	REVENUE	
8	1727/19	M TARIQ	EDU	
9	8828/20	✓ SARDAR MUNIR	POLICE	
10	11550/20	YOUSAF KHAN	EDU	
11	11962/20	✗ ZULFIQAR KHAN (2)	ESTAB	
12	12440/20	✗ M. AYAZ (2)	HOME	
13	14549/20	ABDULLAH JAN	HOME	
14	183/21	HASHMA SAMI	EDU	
15	1618/21	RAHAT ULLAH	POLICE	
16	4528/21	GHANI GUL	EDU	
17	6619/21	M. RAZA BADSHAH	POLICE	
18	318/22 RA	✗ AMIR MUHAMMAD DURRANI	ESTAB	
19	442/22	DR. RAHIM ULLAH	AGRI	



- xi) Officers/officials except DCOs and DPOs/SPs who are due to retire within one year may be posted on their option on posts in the Districts of their domicile and be allowed to serve there till the retirement  
 DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales;

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

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

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

**POSTED**

**POSTED**

20

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

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

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

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

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

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

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

All concerned are requested to ensure that tenures of the concerned officers/officials are invariably mentioned in summaries submitted to the Competent Authorities for Posting/Transfer.  
{Authority: Letter No: SOR-VI/E&AD/1-4/2003 dated 24-6-2003}.

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

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

REQUESTED

REQUESTED

Ahmad

ANNEX-I

21

IN THE PESHAWAR HIGH COURT PESHAWAR

Writ Petition No. 3737P /2019



1. Nisar Muhammad  
DEO (M), Swabi.
2. Jehangir Khan,  
DEO (M), Charsadda.
3. Nawab Ali,  
DEO (M), Kolai Palas, Kohistan.
4. Qazi Tajamul  
DEO (M), Abbottabad.
5. Muhammad Tahir,  
DEO (M), Dir Upper..... Petitioners

Versus

1. The Govt. of Khyber Pakhtunkhwa  
through Chief Secretary,  
Civil Secretariat, Peshawar.
2. The Secretary,  
Govt. of Khyber Pakhtunkhwa  
Elementary & Secondary Education Department,  
Civil Secretariat, Peshawar.
3. Zahid Muhammad  
DEO (M) on Acting Charge  
Directorate of Elementary & Secondary Education,  
G.T. Road, Peshawar.
4. Muhammad Azam Khan,  
DEO (M) on Acting Charge  
Directorate of Elementary & Secondary Education,  
G.T. Road, Peshawar.
5. Sheraz Ahmad,  
DEO (M) on Acting Charge  
Directorate of Elementary & Secondary Education,  
G.T. Road, Peshawar.
6. Iqbal Khan  
DEO (M) on Acting Charge  
Directorate of Elementary & Secondary Education,  
G.T. Road, Peshawar.

ATTESTED  
ENAMUL  
Peshawar High Court

FILED TODAY

Deputy Registrar

10 JUL 2019

WP3737-2019- Nisar Muhammad Vs Govt of Khyber Pakhtunkhwa

7. **Muhammad Riaz,**  
DEO (M) on Acting Charge  
Directorate of Elementary & Secondary Education,  
G.T. Road, Peshawar. ....

Respondents

**WRIT PETITION UNDER ARTICLE, 199 OF THE CONSTITUTION OF  
THE ISLAMIC REPUBLIC OF PAKISTAN, 1973.**

Respectfully Sheweth,

*Facts giving rise to the present writ petition are as under:-*

1. That all the Petitioners are the Officers of the Elementary & Secondary Education Department, Govt. of Khyber Pakhtunkhwa (Teaching Cadre) serving in BPS-19 (regular basis), having longstanding service in Education Department. (Seniority List Annex:-A).
2. That as per the Notification dated 01.05.2009 (Annex:-B), the posts of Executive District Officers/Additional Directors (BPS-19) were/are to be filled in through initial recruitment at the ratio of 40% from open market and 60% from amongst the teaching cadre having the qualification as mentioned in Column No.3.
3. That since the rules affected the interests of the Teaching Cadre in matters of posting to subject posts accordingly the Teaching Cadre officers filed Writ Petition No.2937/2009 which was disposed of vide order dated 18.11.2009 (Annex:-C) with certain directions which order was called in question by the Officers of the Teaching Cadre before the Apex Court in C.P. No.734 of 2010 but meanwhile vide Notification dated 07.04.2012 (Annex:-D) the Government amended the Notification dated 04.05.2009 ibid and thus made the Teaching Cadre Officers transferable to the Management Cadre. Accordingly, C.P. Pending before the august Supreme Court of Pakistan stood infructuous and disposed of accordingly vide order dated 09.04.2012 (Annex:-E).
4. That the Rules/Notification ibid, were amended vide Notification dated 03.07.2018 (Annex:-F), relevant portion of the amendment is as under:-

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EXAMINED  
Peshawar High Court

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WP3737-2019- Nisar M. Deputy Registrar

10 JUL 2019

S#	Nomenclature of the post	Minimum qualification for initial recruitment or by transfer	Age limit	Method of Recruitment
1.	2	3	4	5
1.	-	-	-	-
2.	District Education Officer/Additional Director (BPS-19) (M&F)	---	---	By promotion, on the basis of seniority-cum-fitness from amongst the Deputy District Education Officers and Deputy Directors (M&F) with at least seven years service in BPS-18 or 12 years service in BPS-17 and above and having the qualified mid career Management Course.  Provided if no suitable Officer is available for promotion then by transfer of BPS-19 Officer.

5. That all the Petitioners have been serving against the posts of Management Cadre ever since their posting and have been performing their functions as such with full dedication in efficient manner and during such period they have never given any cause of complaint to their high-ups rather their efforts have been commended and appreciated. (Notifications dated 18.04.2013, 31.12.2012 in respect of Petitioners No. 1, 2&4 are *Annex:-G*).
6. That Respondents No.3-7 were appointed as Deputy District Education Officers/Deputy Director (BPS-18) vide Notification dated 15.04.2014 (*Annex:-H*) and vide Notification dated 27.05.2019 (*Annex:-I*) they were promoted to the posts of District Education Officers/Additional Directors (BPS-19) on Acting Charge basis on account of dearth in their length of service required for regular promotion to the subject posts.
7. That Petitioners are senior Officers having been posted to the subject posts being eligible, experienced under the Rules, however, in violation of the law and Rules, the junior-most Officers i.e. Respondents No.3-7 are going to be posted against the posts of Petitioners as is evident from the Notification dated 31.05.2019 (*Annex:-J*) showing their actualization of promotion to the posts occupied by Petitioners.
8. That actions of the Respondents by disturbing the Petitioners by posting ineligible, junior Officers are highly illegal, malafide and therefore, Petitioners being aggrieved of the same, having no other adequate and efficacious remedy, file this constitutional petition inter-alia on the following grounds:-

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Deputy Registrar

10 JUL 2019

Grounds:

- A. That Respondents have not treated petitioner in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully decided to disturb the Petitioners through adjustment of Respondents No.3-7 which is unjust, unfair and hence not sustainable in the eye of law.
- B. That Petitioners are regular officers in BPS-19 and have been posted to the subject posts as per the Rules. In presence of Petitioners, the adjustment of Respondents No.3-7 against the posts occupied by Petitioners is in utter violation of the law, based on mala fide intention and hence not sustainable under the law.
- C. That Respondent No.3-7 are not only junior officers but are also not eligible for promotion to BPS-19 having insufficient length of service in BPS-18 under the Rules whereas on the other hand Petitioners are regular officers in BPS-19 and serving against the subject posts since long without any complaint whatsoever, therefore the displacement of Petitioners through unlawful adjustment of Respondents is highly illegal, against the Public Policy and thus not tenable under the law.
- D. That even the acting charge appointment of Respondent No.3-7 is unlawful and is violative of the provisions of Rules 9 Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989. Firstly, there is no post vacant against which Respondent No.3-7 could be promoted as the posts are lawfully occupied by Petitioners and secondly, Respondent No.3-7 are ineligible having no required length of service under the Rules. Thus the decision of Respondents to adjust them in places of Petitioners is arbitrary and thus not maintainable under the law.
- E. That Petitioners are senior officers of the same Department having rendered longstanding service in the Department to the entire satisfaction of the high-ups. They have performed on the subject posts for long and have got long experience in the field while Respondent No.3-7 have got no parallel position at the expense of Petitioners therefore their adjustment in

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 WP3737-2019  
 Nisar Monar  
 10 JUL 2019

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 10 JUL 2019

places of Petitioners not legally a correct decision.

For the aforesaid reasons, it is therefore, humbly prayed that on acceptance of this writ petition, this Hon'ble Court may graciously be pleased to declare the decision of the Respondents to dislodge Petitioners from the posts occupied by them by adjusting Respondents No.3-7 there-against as without lawful authority and hence of no legal effect and this august Court may further be pleased to direct the Respondents to act in the matter in accordance with law and not to disturb Petitioners by unlawful adjusting Respondents No.3-7 against the posts occupied by Petitioners being senior regular officers in BPS-19.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to petitioner.

### Interim Relief

By way of interim relief, this Hon'ble Court may graciously be pleased to restrain the Respondent from unlawfully disturbing the Petitioners through illegal adjustment of junior and ineligible officers against the posts occupied by Petitioners till the final disposal of the instant writ petition.

Through

Petitioners

Khaled Rahmani  
Advocate,  
Supreme Court of Pakistan

Dated: 09/07/2019

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Deputy Registrar  
Supreme Court of Pakistan

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Deputy Registrar  
10 JUL 2019

CERTIFICATE

Certified on instruction that petitioner(s) has/have not previously moved this Hon'ble Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 regarding present matter.

Khaled Rahmany  
Advocate, Peshawar

List of Books

- 1. The Constitution of the Islamic Republic of Pakistan, 1973.
- 2. Services Law.

NOTE

- 1. Three spare copies of the Writ Petition are enclosed in a separate file cover.
- 2. Memo of addresses is also attached.

Khaled Rahman  
Advocate, Peshawar

CERTIFIED TO BE TRUE COPY  
EXAMINER  
Peshawar High Court, Peshawar  
Authorized Under Article 57 of  
the Constitution of Pakistan Order 1981  
11 APR 2022

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10 JUL 2019



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7

IN THE PESHAWAR HIGH COURT PESHAWAR

W.P. No. 337 /2019

Nisar Muhammad and others ..... Petitioners

Versus

The Govt. of KPK and others ..... Respondents

Affidavit

I, Nisar Muhammad District Education Officer (Male), Swabi, do hereby solemnly affirm and declare on oath that the contents of this writ petition are true and correct to the best of my knowledge, and nothing has been concealed from this Hon'ble Court.

*Petitioner No. 1*

Identified by  
Khaled Rahman  
Advocate, Peshawar

*[Signature]*  
Deponent

173PI-2170685-1  
6344 89 22 889

No. 2950

Certified that the above was verified on solemnly affirmation before me on this 09 day of July 2019 at Swabi who was identified by Khaled Rahman who is personally [Signature]

*[Signature]*  
Oath Commissioner  
Peshawar High Court, Peshawar.

~~NOT TO BE TAKEN OFF~~  
*[Signature]*  
PESHAWAR  
10 JULY 2019

FILED TODAY  
*[Signature]*  
Deputy Registrar  
10 JULY 2019

**JUDGMENT SHEET**  
**PESHAWAR HIGH COURT, PESHAWAR**  
**(JUDICIAL DEPARTMENT)**



WP No. 3737-P/2019

**JUDGMENT.**

Date of hearing: 22.10.2019

Petitioner: Nisar Muhammad (Sgt) - No. Khalid Rehman

Respondents: Sgt. No. Noor Muhammad & others - D.D. & - Sgt. Qasim Ali Shah D.D.

**WAQAR AHMAD SETH, CJ:-** Petitioners, Nisar

Muhammad and others, through the instant Writ Petition, seek issuance of an appropriate writ declaring the decision of respondents to dislodge the petitioners from the posts occupied by them by adjusting respondents No. 3-7 thereagainst as without lawful authority and of no legal effect; hence, this Court may direct the respondents to act in the matter in accordance with law and not to disturb the petitioners by unlawful adjusting respondents No. 3-7 against the posts occupied by petitioners being senior regular officers in BPS-19.

2. In essence, grievance of the petitioners is that they are Officers of the Elementary & Secondary Education Department, Government of Khyber Pakhtunkhwa (Teaching

ATTESTED  
EXAMINER  
Peshawar High Court

Cadre) and serving against the posts of Management Cadre in BPS-19) since 2012-2013 while respondents No. 3 to 7 being juniors to them are going to be posted against the posts of petitioners as is evident from the Notification dated 31.05.2019; hence, the instant Writ Petition.

3. Respondents No. 1 & 2 have filed their comments and opposed the writ of petitioners.


4. Arguments heard and record perused.

5. Admittedly, petitioners belong to Teaching Cadre and have been posted against the post of Management Cadre as stopgap arrangement due to shortage of officers in Management Cadre, however, after filing Writ Petition No. 4274-P/2016 before this Court by Management Cadre, the same was disposed of vide order dated 11.01.2018 with direction to the respondents to finalize the case for making provision in the Rules with regard to promotions in the Management Cadre within three months with further direction to rationalize posting/transfer against Management Cadre posts in light of relevant rules/policy. In compliance thereof, the respondents have framed service rules for Management

Cadre and notified the same for promotion upto BPS-20 vide Notification dated 27.03.2019; hence, keeping in view the aforesaid Service Rules, the action of respondents for adjusting respondents No. 3 to 7 against the petitioners' post is in accordance with law and no writ can be issued in favour of petitioners.

6. Resultantly, the Writ Petition being without any merit is hereby dismissed.

**ANNOUNCED.**  
Dated: 22.10.2019

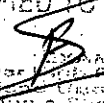
  
**Chief Justice**

  
**Judge**

=====

33150

Date of Presentation of Application 11-4-22  
 No of Pages 10-9  
 Copying fee 60/-  
 Total 60/-  
 Date of Preparation of Copy 11-4-22  
 Date of Delivery of Copy 11-4-22  
 Received By [Signature]

CERTIFIED TO BE TRUE COPY  
  
 11 APR 2022

**VAKALATNAMA**

31



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

APPEAL NO: 506 OF 2022

Mst Mehrun Nisa

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

Education Deptt.

(RESPONDENT)  
(DEFENDANT)

I/We Mst Mehrun Nisa

Do hereby appoint and constitute **NOOR MUHAMMAD KHATTAK Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

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

M

**CLIENTS**

**ACCEPTED**

**NOOR MUHAMMAD KHATTAK**

**UMER FAROOQ MOHMAND**

**KAMRAN KHAN**

**MOHAMMAD MAAZ MADNI**

**HAIDER ALI**

**&**

**MUJIB UR REHMAN**  
**ADVOCATES**

# WAKALAT NAMA

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 506 /2022

**MST. MEHRUN NISA**

**VERSUS**

**THE GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH CHIEF  
SECRETARY, KPK AND OTHERS**

(Petitioner)  
**(Plaintiff)**  
(Appellant)  
(Accused)  
(Decree-Holder)

**(Respondents)**  
(Defendant)  
(Opponent)  
(Complainant)  
(Judgment-Debtor)

**I, Mst. Haleema Bibi DEO (Female) Chitral Lower, Respondent No. 4**

The above named respondent No. 4 hereby appoints and constitute **SHER HYDER KHAN, Advocate High Court, Peshawar**, as counsel for (Respondent No. 4) in the above mentioned case, to do all or any of the following acts, deeds and things:-

- 1- To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal or any other court/tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
- 2- To sign, verify and file or withdraw all proceedings, petitions, appeals, revision, review affidavits and applications for compromise or withdrawal, or for submission to arbitration of the said case, or any other document, as may be deemed necessary or advisable by him for the conduct, prosecution or defense of the said case at any stages.
- 3- To receive payment of and issue receipts for all money that may be or become due and payable to us during the course or on the conclusion of the proceedings. To do all other acts and things this may be deemed necessary or advisable during the course of the proceedings.

**AND HEREBY AGREE:-**

- a) To ratify whatever the said Advocate may do in the proceedings.
- b) Not to hold the Advocate responsible if the said case be proceeded ex-parte or dismissed in default in consequence of their absence from the Court/Tribunal when it is called for hearing.
- c) That the Advocate shall be entitled to withdraw from the prosecution of the said case if the whole OR any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this power of Attorney/Wakalat Nama hereunder the contents of which have been read/explained to me/us and fully understood by me / us this 12nd Day of May, 2022 at Peshawar.

Accepted subject to term regarding payment of fee.

**SHER HYDER KHAN**  
ADVOCATE HIGH COURT  
LL.B (Hons), LL.M (I-L)



Signature of Executant  
*Haleema Bibi*  
**Respondent No. 4**  
**Mst. Haleema Bibi**  
**DEO (Female) Chitral Lower,**

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

In S.A/No.506/2022

**Mst. Mehrun Nisa MC (BPS18).....Appellant.**

**VERSUS**

**The Chief Secretary, Govt: of Khyber Pakhtunkhwa & others..... Respondents.**

**JOINT PARAWISE COMMENTS ON BEHALF OF THE RESPONDENTS NO 1-3.**

**Respectfully Sheweth,**

**Preliminary Objections:**

1. That the appellant has got no cause of action/locus standi.
2. Correct.
3. That the appellant has concealed the material facts from this Hon'ble Tribunal, hence instant appeal is liable to be dismissed on this score.
4. That the present appeal is liable to be dismissed for mis-joinder & non joinder of necessary parties.
5. That the appellant is estopped by her own conduct to file the instant appeal.
6. That the instant appeal is not maintainable in its present form and also in the present circumstances of the issue.
7. That the Notification dated 08-02-2022 of the Respondents is according to law and rules.
8. That the appellant is neither an aggrieved person nor having any locus- standi to file the instant appeal.
9. That the matter in issue has already been decided by the August Peshawar High Court Peshawar on merit vide its order dated 21-02-2022.
10. That with utmost respect this Hon'ble Tribunal lacks jurisdiction to entertain this appeal.

**FACTS.**

1. That para-1 pertains to service record of the appellant.
2. That in reply to para-2 it is submitted that the appellant was transferred in the same district from the post of D.D.E.O (F) Chitral Lower to the post of DEO (F) Chitral vide notification dated 10.04.2020.
3. That Para No.3 is admitted as correct.
4. That para No.4 of the appeal is incorrect hence denied; as the appellant was transferred by the competent authority after completion her normal tenure on the same post/station, furthermore as per rules appellant can be posted anywhere on exigencies of service.
5. That para No.5 of the appeal is correct to the extent that the appellant field departmental appeal but the same was dispose of on merits after providing an opportunity of personal hearing to the appellant.

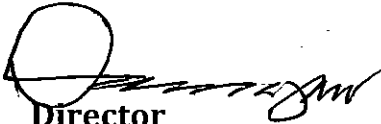



6. That in para no.6 of the appeal is incorrect hence denied.
7. As already explained in para 5 of the instant reply.
8. That the appellatant is not aggrieved hence instant appeal may be dismissed inter alia on the following grounds.

**Grounds :**

- A. Incorrect hence denied, the Notification dated 08-02-2022 is within legal sphere and as the appellatant being civil servant is required to serve anywhere in the Province under the mandatory provisions of Section 10 of KPK, Civil Servant Act, 1973.
- B. Incorrect hence denied as already explained "A Government servant is required to serve anywhere where ever his/her services are required for the best public interest".
- C. Incorrect hence denied as already explained in the preceding paras.
- D. Incorrect hence denied.
- E. Incorrect hence denied as already explained above.
- F. Ground F of the appeal is incorrect hence denied as posting transfer cannot be claimed as a matter of right.
- G. Ground G of the appeal of the appellatant is incorrect hence denied as the notification dated 08-02-2022 issued by the competent authority after observing all the codal formalities.
- H. Incorrect hence denied as already explained in preceding paras.
- I. Incorrect hence denied as already explained in preceding paras.
- J. That with prior permission of this Hon'ble Tribunal the respondents may urged other grounds or proofs if any during the course of arguments.

**In view of the above made submissions, it is, therefore, most humbly prayed that this Honorable Tribunal may very graciously be pleased to dismiss the appeal with cost in favor of the Respondents in the interest of justice.**

  
**Director**  
**E&SE, KP Peshawar**  
**(Respondent No. 03)**

  
**Secretary**  
**E&SE Department**  
**(For Respondents 1 to 2)**



**BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR**

Service Appeal # 506/2022

Mst. Mehrun Nisa MC (BS-18)..... Petitioner

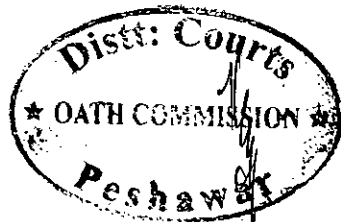
— VERSUS

The Chief Secretary, Govt. of Khyber Pakhtunkhwa & others..... Respondents

**AFFIDAVIT**

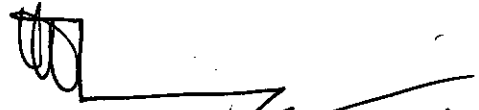
I, Khalid Mateen, Section Officer (Litigation-II) Elementary & Secondary Education, Department do hereby solemnly affirm and declare that the contents of the accompanying para-wise comments, submitted by the respondents, are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable court.

**ATTESTED**



01/07/2022

**DEPONENT**

  
Mr. Khalid Mateen  
Section Officer (Lit-II)

**BEFORE THE KHYBER PAKHTUNKHUWA SERVICE**

**TRIBUNAL PESHAWAR**

**Service Appeal No. 506/2022**

**Mst. Mehrun Nisa**

**V E R S U S**

**Government of Khyber Pakhtunkhwa (KPK) through  
Chief Secretary at Civil Secretariat Peshawar and others**

**I N D E X**

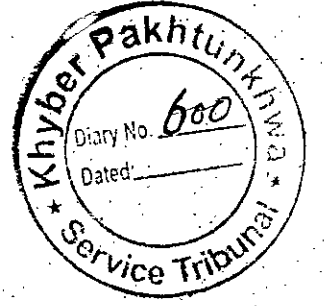
<b>Sr. No.</b>	<b>Description of Documents</b>	<b>Annexure</b>	<b>Pages</b>
<b>1.</b>	<b>Written Comments along With Affidavit</b>		<b>1-4</b>
<b>2.</b>	<b>Copies of Writ Petition and Review Petition before Peshawar High Court</b>	<b>"A"</b>	<b>5-17</b>
<b>3.</b>	<b>Copies of Impugned Notification and Transfer Posting Policy</b>	<b>"B"</b>	<b>18-22</b>
<b>4.</b>	<b>Copies of Notification Transfer Posting 17-06-2022 &amp; Service Appeal No. 950/2022</b>	<b>"C"</b>	<b>23-33</b>
<b>5.</b>	<b>Wakalatnama</b>		<b>34</b>

**Respondent No. 4**

**Through**

**SHER HYDER KHAN**  
**ADVOCATE HIGH COURT**  
**LL.B (Hons), LL.M (I-L)**

**The Magister & Associates**  
**103, Said Anwar Plaza,**  
**Dabgari Gardens Peshawar Cantt**  
**Ph: 091-2214005 Cell: 0336-9377022**

**BEFORE THE KHYBER PAKHTUNKHUWA SERVICE****TRIBUNAL PESHAWAR**  
**Service Appeal No. 506/2022****Mst. Mehrun Nisa****V E R S U S****Government of Khyber Pakhtunkhwa (KPK) through  
Chief Secretary at Civil Secretariat Peshawar and others****WRITTEN COMMENTS FOR AND ON BEHALF OF  
RESPONDENT NO. 4****RESPECTFULLY SHEWETH;**

Written comments in the subject Service Appeal are submitted as under;

**PRELIMINARY OBJECTIONS;**

1. That the appellant has got no cause of action as well as locus standi.
2. That the appeal is bad in its present form.
3. That the appeal is not maintainable in its present form and also present circumstances.
4. That prior to instant appeal the appellant instituted Writ Petition challenging the impugned notification dated; 08-02-2022 in W.P. 547/2022. Which has been dismissed vide order dated; 21-2-2022 and subsequently the same order has been challenged in Review Petition before the Hon'ble High Court, which has been dismissed as withdrawn on 28-06-2022.

**Copies of Writ Petition and Review Petition is annexed as "A"**

5. That the appellant instituted the instant appeal and has concealed the fact in respect of Review Petition in the memo of appeal and as held

by superior court concealment of facts amounts to contempt of court; moreover; the instant appeal is hit by the *Doctrine of Election*.

6. That according to notification / policy of the Provincial Government the Respondent No. 4 to be appointed / posted against the post of DEO, thus; no illegally or irregularity has been committed in the impugned notification dated; 08-02-2022.

**Copies of Impugned Notification and Transfer Posting Policy annexed as "B"**

7. That the appellant is in BPS-18 and was posted in her **Own Pay & Scale (OPS)** as DEO (Female) that is prima facie the subject issue and falls within the ambit of OPS and there is no doubt that the position of DEO is BPS-19 and to fill up the post through a regular **BPS-19 Officer**, the respondent No. 4 has been transferred vide the impugned notification. Which is just and proper in the circumstances.

8. That during the pendency of the instant service appeal the respondents No. 1 to 3 made further pre-mature transfer the respondent No. 4 just to accommodate the appellant and her services are placed to the disposal of Directorate of Elementary and Secondary Education Department, Peshawar vide posting / transfer order dated; 17-06-2022, which shows the malafide on part of appellant, in this respect the Respondent No. 4 instituted service appeal bearing No. 950/2022 before the Hon'ble KP Service Tribunal, Peshawar where the posting / transfer order has been suspended.

**Copies of Notification Transfer Posting 17-06-2022 & Service Appeal No. 950/2022 annexed as "C"**

9. The appeal of the applicant is meritless and <sup>may</sup> please be dismissed with cost accordingly.

**OBJECTION ON FACTS;**

1. Para No. 1 needs no comments
2. Para No. 2 needs no comments
3. Para No. 3 needs no comments
4. Para No. 4 correct to the extent of Notification dated; 08-02-2022 detailed reply has been given in para 6 & 7 of preliminary objection.
5. That Para No. 5 is in respect of appellant is need no comments.
6. That Para No. 6 has been fully replaced in para 4 & 5 of preliminary objection needs no comments.
7. That para No. 7 is in respect of appellant needs no comments
8. That para No. 8 is self-assertion of appellant detailed reply has been given in Para 4 & 5 of preliminary objection.

**OBJECTION ON GROUNDS;**

- a. That para "A" is based in assumption detailed reply has been given preliminary objection the para is denied.
- b. That Para "B" is false and incorrect detailed reply has been given in para 6 & 7 of the preliminary objection. The para is denied in toto.
- c. That para "C" is based on self-assertion detailed reply has been given in para 1 and 3 of the preliminary objections; however; the law empowers the competent authority to appoint a civil/public servant under section 10 of the **Khyber Pakhtunkhwa Civil Servant Act 1973**; and it is prerogative of the Provincial Government to transfer or post a civil servant when and where it deems fit and appropriate; thus; the para is denied in toto.
- d. That para "D" is based in presumptions brace, denied in toto.
- e. That para "E" is baseless detailed reply has been given in Para 6 & 7 of preliminary objection; the para is denied in toto.

- f. That para "F" is in respect of applicant needs no comments.
- g. That para "G" is in comment detailed reply has been given in Para 6 & 7 of the preliminary objection; hence; the para is denied in toto.
- h. That para "H" is baseless detailed reply has been given in para 6 & 7 of preliminary objection; the para is denied in toto.
- i. That para "I" is baseless detailed reply has been given in para 6 & 7 of preliminary objection; the para is denied in toto.
- j. That para "J" needs no comments, however; it is not allowed to take the respondents by surprise.

**PRAYERS;**

It is, therefore, in the view of the above made submission; it is, humbly requested that this Honorable Tribunal may very graciously be pleased to dismiss the appeal with cost throughout in favour of the Respondent No. 4.

01-7-2022

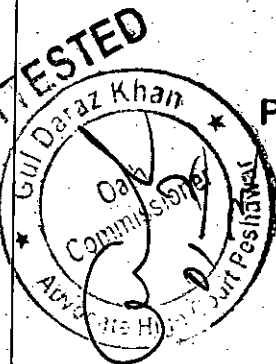
  
Respondent No. 4

Through 

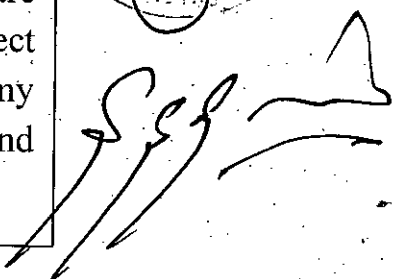
**SHER HYDER KHAN**  
ADVOCATE HIGH COURT  
LL.B (Hons), LL.M (I-L)

**AFFIDAVIT:**

I, **Bibi Haleema**  
(Respondent No. 4) do hereby solemnly affirm and verify that all the contents of the written comments; are true and correct to the best of my knowledge and belief.



**The Magister & Associates**  
103, Said Anwar Plaza,  
Dabgari Gardens Peshawar Cantt  
Ph: 091-2214005 Cell: 0336-9377022



5

ANNEXURE "A"

**BEFORE THE PESHAWAR HIGH COURT, PESHAWAR**

**WRIT PETITION NO. \_\_\_\_\_/2019**



Mst: Mehrun Nisa, (Management Cadre) (BPS-18),  
District Education Officer (F) District Lower Chitral, under transfer to the  
Directorate of E&SE Department, Peshawar for further posting.

..... **PETITIONER**

**VERSUS**

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 4- Mst: Haleema Bibi (BPS-19) (Teaching Cadre) under transfer against the post of DEO (F) Lower Chitral.

..... **RESPONDENTS**

**WRIT PETITION UNDER ARTICLE 199 OF THE  
CONSTITUTION OF ISLAMIC REPUBLIC OF  
PAKISTAN 1973 AS AMENDED UP TO DATE**

**R/SHEWETH:**

**ON FACTS:**

- 1- That petitioner is the law abiding citizen of Pakistan and serving the respondents department as Management Cadre officer. Copy of CNIC is attached as annexure ..... **A.**
- 2- That petitioner while performing his duties in the respondent department quite efficiently and whole heartedly was transferred and posted as District Education Officer (F) Lower Chitral vide notification dated 10.04.2020. Copy of the notification dated 10.04.2020 is attached as annexure ..... **B.**
- 3- That in pursuance to the mentioned notification the petitioner took over charge of his post on 11.04.2020. Copy of the charge certificate is attached as annexure ..... **C.**
- 4- That astonishingly vide impugned Notification dated 08.02.2022 the petitioner was transfer from his post and his services was placed at the disposal of the Directorate of Elementary & Secondary Education Peshawar, whereas the private respondent No. 4 who belongs to the Teaching cadre was transferred and posted as District Education Officer (F) Chitral Lower vide the impugned notification in utter violation of the transfer posting policy of the provincial government and

**ATTESTED**  
EXAMINER  
Peshawar High Court

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judgments of this august High Court. Copy of the impugned Notification dated 08.02.2022 is attached as annexure .....D.

- 5- That petitioner feeling aggrieved from the impugned Notification dated 08.02.2022 submitted Departmental appeal before the appellate authority but the same has not been decided within the stipulated period. Copy of the departmental appeal is attached as annexure .....E.
- 6- That as the august Service Tribunal is non-functional due to retirement of the Honorable Chairman therefore the petitioner having no other remedy but to file the instant writ petition on the following grounds amongst the others.

**GROUND:**

- A- That the impugned Notification dated 08.02.2022 issued by the respondent No.2 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside to the extent of petitioner and private respondent No. 4.
- B- That the petitioner has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973.
- C- That the impugned Notification dated 08.02.2022 is against the clauses I & II of the transfer/posting policy of the provincial Government of Khyber Pakhtunkhwa. Copy of the Transfer posting policy is attached as annexure.....F
- D- That the impugned Notification dated 08.02.2022 to the extent of petitioner and private respondent No. 4 is also violative of the judgment of the august Peshawar High Court, Peshawar and issuance of the impugned Notification dated 08.02.2022 is amounting to contempt of court. Copy of the judgment of Peshawar high court Peshawar is attached as annexure.....G
- E- That petitioner belongs to the Management Cadre and the private respondent No. 4 belongs to the Teaching cadre, and the subject post is that of management cadre so how could a person belonging to the teaching cadre be posted on the post of management cadre.
- F- That, the treatment meted out to the petitioner is a clear violation of the Fundamental Rights of the petitioner.

**ATTESTED**  
**EXAMINER**  
Peshawar High Court



(7)

- G- That the respondents acted in arbitrary and malafide manner by issuing the impugned Notification dated 08.02.2022 against the petitioner.
- H- That, the petitioner has been discriminated by the respondents on the subject noted above and as such the respondents violated the Principle of Natural Justice.
- I- That neither the impugned Notification dated 08.02.2022 has been issued in the public interest nor the same has been issued in exigencies of public service.
- J- That the petitioner seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly prayed that on acceptance of this writ petition the action of the respondent No.2 by issuing the impugned Notification dated 08.02.2022 in utter violation of the transfer/posting policy may be declared as illegal, unconstitutional and in effective upon the rights of the petitioner. That the respondent No.2 may please be directed to set aside he impugned Notification dated 08.02.2022 to the extent of the petitioner and private respondent No. 4. Any other remedy which this august Court deems fit that may also be awarded in favor of the petitioner.


**INTERIM RELIEF:**

That the operation of the impugned Notification dated 08.02.2022 may kindly be suspended till the disposal of the instant writ petition.

Dated: 10.02.2022

PETITIONER  
  
 MEHRUN NISA

**THROUGH:**  
 NOOR MOHAMMAD KHATTAK  
  
 KAMRAN KHAN

&  
  
 UMAR FAROOQ MOHMAND  
 ADVOCATES

FILED TO PETITIONER.COM  
 16 MAY 2022

8

**VERIFICATION:**

It is verified that no other earlier writ petition was filed between the parties.

**DEPONENT**

**LIST OF BOOKS:**

1. Constitution of Pakistan.
2. Services Laws Books.
3. Any other Case law as per need.

**ATTESTED**

**EXAMINER**  
Peshawar High Court

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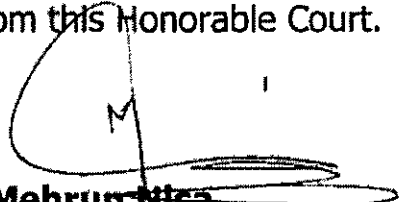
**BEFORE THE PESHAWAR HIGH COURT, PESHAWAR**

**WRIT PETITION NO. \_\_\_\_\_/2022,**

**Mehrun Nisa V/S GOVT: OF KP & OTHERS**


**AFFIDAVIT**

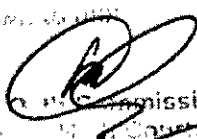
I Mehrun Nisa, DEO (F) Elementary & Secondary Education Lower Chitral, do hereby solemnly affirm that the contents of this **writ petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

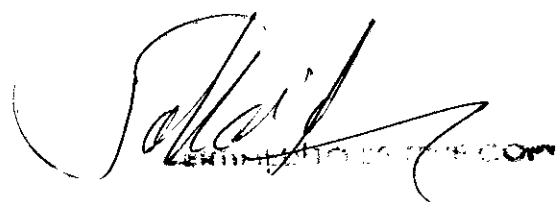


**Mehrun Nisa**  
PETITIONER

CNIC NO: 17201-2057953-0 ✓  
Cell: 0349-9868003

Identified by:   
**NOOR MOHAMMAD KHATTAK,**  
Advocate,  
High Court, Peshawar

No:.....	2994
Certified that the above was verified on solemnly affirmation before me in office this..... 11 <sup>th</sup> day of Feb 2022 at Mehrun Nisa DEO Chitral who was identified by Noor Khattak and is personally known to me.	
 Commissioner Peshawar 11/02/2022	



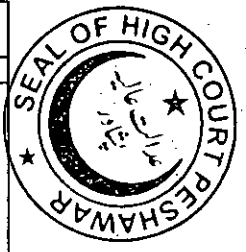
16 MAY 2022

10

# PESHAWAR HIGH COURT, PESHAWAR

## FORM OF ORDER SHEET

Date of Order or Proceedings 1	Order of other Proceedings with Signature of Judge. 2
21.02.2022	<p><b>W.P No. 547-P/2022.</b></p> <p><b>Present:</b></p> <p style="text-align: center;"><b>Mr. Kamran Khan, Advocate, for the petitioner.</b></p> <p style="text-align: center;">*****</p> <p><b><u>SYED ARSHAD ALI, J.</u></b> Mst. Mehrun Nisa, the petitioner through the instant petition challenges the notification dated 08.02.2022; whereby she being DEO (F) at Lower Chitral was transferred to Directorate of E&amp;SE Khyber Pakhtunkhwa.</p> <p><u>2.</u> The learned counsel for the petitioner has contended that although the present petitioner is a civil servant, however, owing to the retirement of Chairman Khyber Pakhtunkhwa Service Tribunal, the Service Tribunal is dysfunctional; hence the present petitioner cannot approach to the Service Tribunal, therefore, has filed this petition challenging her premature transfer, through the impugned order.</p> <p><u>3.</u> The learned counsel for the petitioner has further contended that the respondent who has been posted against the post of DEO (F) Lower Chitral belongs to teaching cadre and under the relevant rules, a teacher cannot hold the office which is meant for management cadre and secondly the impugned transfer of the</p>



**ATTESTED**  
EXAMINER  
Peshawar High Court

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petitioner is premature as she has not completed her tenure of three years against the said post. The learned counsel has relied upon the judgment of this Court passed in W.P No.503-P/2022 dated 11.02.2022 wherein a writ petition of a civil servant was maintained on the aforesaid grounds.

4. Arguments heard and record of the case was perused.

5. Admittedly, the present petitioner is a civil servant and under Section 10 of the Khyber Pakhtunkhwa Civil Servant Act, 1973 she is supposed to serve anywhere in the province against the relevant post. The said transfer and posting order though can be challenged before the appropriate forum but on a very limited ground i.e. lack of jurisdiction of the authority which has passed the order or being tainted with mala-fide.

6. We have perused the record according to which the present petitioner was appointed against the said post on 10.04.2020 wherefrom she was transferred through the impugned order dated 08.02.2022 and thus she held the said post for sufficient time. Indeed, she has no vested right to hold this post for three years as per alleged policy of the Provincial Government. Indeed, it is the competent authority who shall decide the posting and transfer of the civil servant keeping in view the exigency of her or his service and public interest. The Courts have very less jurisdiction to interfere in the same

**ATTESTED**EXAMINER  
Peshawar High Court

i.e. either the impugned order has been passed by incompetent authority or the said order of posting is based on mala-fide. Both the elements are missing in this case.

7. Even otherwise, when the impugned order was passed on 08.02.2022, against which the present petitioner has allegedly filed a representation which has not so far been decided, therefore, under Section 4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974 she has to wait for ninety days to file the petition before the worthy Khyber Pakhtunkhwa Service Tribunal; hence this petition at this stage is otherwise premature.

8. Indeed, the present petitioner is a civil servant and under Article 212 of the Constitution of Islamic Republic of Pakistan, the jurisdiction of this Court is barred to entertain any petition filed by a civil servant for enforcement of his/her terms and conditions. We have also perused the judgment referred by the learned counsel for the petitioner. The facts of the said case are distinguishable.

9. In view of the above, we find no merit in this petition which is accordingly dismissed.

**Announced:**  
21.02.2022

JUDGE

JUDGE

CERTIFIED TO BE TRUE COPY

Examined  
and found correct  
The District Registrar

16 MAY 2022

13



**BEFORE THE PESHAWAR HIGH COURT PESHAWAR**

**REVIEW PETITION NO. \_\_\_\_\_/2022**

**IN**

**IN WRIT PETITION NO. 547-P/2022**

Mst: Mehrun Nisa, (Management Cadre) (BPS-18),  
District Education Officer (F) District Lower Chitral, under transfer to the  
Directorate of E&SE Department, Peshawar for further posting.

..... **PETITIONER**

**VERSUS**

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 4- Mst: Haleema Bibi (BPS-19) (Teaching Cadre) under transfer against the post of DEO (F) Lower Chitral.

..... **RESPONDENTS**

**REVIEW PETITION UNDER SECTION 114 READ WITH ORDER XLVII RULE 1 OF CPC AGAINST THE JUDGMENT DATED 21.02.2022**

**R.SHEWETH:**

**Petitioner respectfully submitted as under:**

- 1- That, the applicant/petitioner has filed writ petition No. 547-P/2022 before this august Court by challenging the impugned notification dated 08.02.2022 of the respondents whereby the petitioner has been pre-maturely transferred. Copy of Memo of Writ Petition is attached as Annexure ..... **A.**
- 2- That the said writ petition was fixed on 21.02.2022 before the Honorable Divisional Bench.
- 3- That the said writ petition was dismissed on the ground that the petitioner being civil servant cannot approach to this august high court, but it is important to mention here that as the Chairman of the Khyber Pakhtunkhwa Service Tribunal has retired and the tribunal in non-functional that is why the petitioner having no other remedy approach to this august high court. Copy of Judgment/order dated 21.02.2022 is attached as Annexure ..... **B.**

**ATTESTED**  
**EXAMINER**  
Peshawar High Court

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4- That while delivering the impugned order and judgment dated 21.02.2022 available material on record was not properly appreciated and was mis-interpreted, which amount to be an error and is liable to be reviewed on the following grounds amongst others.

**GROUND:**

- A- That the impugned order and judgment dated 21.02.2022 is the result of mis-appreciation and mis-interpretation of available evidence on record, which amounts to be an error, and is liable to be reviewed, may kindly be reviewed.
- B- That this august Court without considering the ground of urgency in the matter as the notification impugned in the writ petition is also void.
- C- That it is an admitted fact that the petitioner is a civil servant but as the august service tribunal is non-functional due to retirement of its Chairman, hence having no other remedy the petitioner has challenged the impugned notification of her transfer before this august high court.
- D- That this aspect of the case has also not be appreciated that the impugned notification in the writ petition is void and issued by an in-competent authority but the honorable bench has dismissed the writ petition in limine.
- E- That the said order and judgment dated 21.02.2022 is not passed by proper reflection of available evidence on record and all the available record on judicial file is crystal clear that the impugned notification in the writ petition has been issued in a malafide manner and had benefited only and only the private respondent no. 4.
- F- That petitioner seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore humbly prayed that on acceptance of this Review petition the order and judgment dated 21.02.2022 may very kindly be reviewed/set aside and the writ petition No. 547-P/2022 may be decided on merit.

Dated: 22.02.2022

**ATTESTED**  
-EXAMINER  
Peshawar High Court



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DB

APPLICANT/PETITIONER

M  
MEHRUN NISA

THROUGH:

NOOR MOHAMMAD KHATTAK

KAMRAN KHAN

UMAR FAROOQ  
ADVOCATES

CERTIFICATE:

It is hereby certified that the instant petition in hand is fit case for review and pertains to DB.

DEPONENT

*[Handwritten Signature]*

DECLARED TO BE TRUE COPY

Notary Public for the Province of Punjab  
Registered under Act No. 19 of 1908  
The Oath-taking Act, 1908

16 MAY 2022,

16

4

**BEFORE THE PESHAWAR HIGH COURT PESHAWAR**

REVIEW PETITION NO. \_\_\_\_\_ /2022

IN

IN WRIT PETITION NO. 547-P/2022


MEHR UN NISA

VS


GOVT: OF KP & OTHERS

**AFFIDAVIT**

I Mehr un nisa DEO (F) elementary & secondary education chitral (petitioner) do hereby solemnly affirm that the contents of this **Review Petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

  
(DEPONENT)  
CNIC NO. 17201-2057953-0 ✓  
CELL: 0349-9868003

**IDENTIFIED BY**

  
**NOOR MOHAMMAD KHATTAK**  
Advocate Supreme Court

No. 4056  
Certified that the above was verified on my  
affirmation before me in office on 24<sup>th</sup>  
day of Feb 2022 at Peshawar  
sic DEO Chitral  
who was identified by Noor Mohammad  
who is personally known to me  
Oath Commissioner  
Peshawar High Court

24/02/2022

**ATTESTED**

**EXAMINER**  
Peshawar High Court

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**BEFORE THE PESHAWAR HIGH COURT, PESHAWAR**

**REVIEW PETITION NO. \_\_\_\_\_/2022  
IN  
IN WRIT PETITION NO. 547-P/2022**

**MEHR UN NISA VS GOVT: OF KP & OTHERS**

**ADDRESSES OF PARTIES**

Mst: Mehrun Nisa, (Management Cadre) (BPS-18),  
District Education Officer (F) District Lower Chitral, under transfer to  
the Directorate of E&SE Department, Peshawar for further posting.

..... **PETITIONER**

**VERSUS**

- 1- The Government of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director (E&SE) Department, Khyber Pakhtunkhwa, Peshawar.
- 4- Mst: Haleema Bibi (BPS-19) (Teaching Cadre) under transfer against the post of DEO (F) Lower Chitral.

..... **RESPONDENTS**

**PETITIONER**

**THROUGH:  
NOOR MOHAMMAD KHATTAK  
ADVOCATE**

*[Handwritten Signature]*  
REGISTERED TO BE TRUE COPY

Examiners,  
Peshawar High Court, Peshawar  
Authorised Under Article 17 of  
the Constitution of Pakistan 1973



16 MAY 2022

36655  
 Date of Presentation of Application: 13/5/2022  
 No of Pages: 5-2  
 Copying fee: 20/-  
 Total: 20/-  
 Date of Preparation: 16/5/2022  
 Date of Delivery of Copy: 16/5/2022  
 Received By: *[Signature]*

17/A

**PESHAWAR HIGH COURT, PESHAWAR**

**ORDER SHEET**

Date of order or proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties or counsel where necessary.
1.	2.
28.06.2022	<p><b><u>Review Petition No.17-P/2022 in WP No.547-P/2022 (D).</u></b></p> <p><b><u>Present:</u></b> Mr. Noor Muhammad Khattak, Advocate for the petitioner.</p> <p>Syed Qaiser Ali Shah, AAG for the respondents.</p> <p>*****</p> <p><b><u>QAISER RASHID KHAN, CJ.-</u></b> The learned counsel for the petitioner, at the very outset, states that he is under instructions to withdraw the instant petition. Dismissed as withdrawn.</p> <p><b><u>Announced.</u></b> <b><u>Dated: 28.06.2022.</u></b></p> <p style="text-align: right;"> <b>CHIEF JUSTICE</b></p> <p style="text-align: right;"> <b>JUDGE</b></p>

No. 42866

Date of Presentation of Application 28-6-22

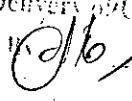
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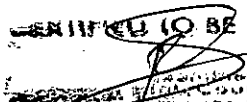
Total 20

Date of Preparation of \_\_\_\_\_

Date of Delivery of \_\_\_\_\_

Received by 

**VERIFIED TO BE TRUE COPY**



**29 JUN 2022**

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT  
Opposite M:A's hostel, Civil Secretariat, Peshawar

Dated Peshawar the April 10<sup>th</sup> 2020

NOTIFICATION:

**No. SO(S/F)E&SED/4-5/2021/Posting/Transfer:** the following posting/transfers are hereby ordered with immediate effect, in the public interest;

S.No	Name	From	To
1.	Muhammad Sultan Principal (BS-19)	GHSS Ghaffanai, Mohmand	DEO (Male) Kurram (AVP)
2.	Mst. Haleema Bibi Principal (BS-19)	GGHS broze Chitral lower	DEO (F) Lower Chitral (Vice Sr No. 3)
3.	Mst. Mehr-un-nisa (MC BS-18)	DEO (F) Lower Chitral (OPS)	Report to directorate of E&SE Khyber pakhtunkhwa.
4.	Mst. Rukhsana Rahim (MC BS-18)	Deputy DEO (Female) Upper Kohistan	DEO (Female) malakand (Vice Sr. No. 5)
5.	Mst. Naheed Anjum (MC BS-19)	DEO (Female) malakand	Report to directorate of E&SE Khyber pakhtunkhwa.
6.	Mr. Said Hussain Principal (BS-19)	GHS Jalaka Mela Orakzai	DEO (M) Khyber (Vice Sr # 7)
7.	Mr. Nisar Muhammad Principal (BS-19)	DEO (Malakand/Khyber)	GHSS Ghallanai Mohmand (Vice Sr No. 1)
8.	Mr. Amir Muhammad principal (BS-18)	Awaiting posting	DEO (Male) South Waziristan in OPS (Vice Sr. No 9)
9.	Mr. Qadeem Khan Principal (BS-19)	DEO (M) South Waziristan	GHS Jalaka Mela, Orakzai (Vice Sr. No. 6)

SECRETARY TO THE GOVT; OF KHYBER PAKHTUNKHWA.

Copy forwarded to the:

1. Accountant Genera, Khyber Pakhtunkhwa, Peshawar
2. Director E&SE Khyber Pakhtunkhwa Peshawar for information
3. District Education officers (male/Female) concerned.
4. Director EMIS, E&SE Department with the request to upload the same on the official website of the department.
5. District Accounts Officers concerned.
6. PS to Secretary E&SE Department, Khyber pakhtunkhwa
7. Officers concerned.
8. Master file.

(HAFEEZ UR REHMAN SHAH)

SECTION OFFICER (MANAGEMENT CADRE)

19



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

NOTIFICATION

Peshawar, dated the March 27, 2019

NO.SO(SM)E&SED/3-2/2016/SSRC of M.C.: In pursuance of the provision contained in sub-rule (2) of rule-3 of the Khyber Pakhtunkhwa Province Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 and in supersession of this Department's Notification No. SO(SM)E&SED/3-2/2016/SSRC of MC dated 03-07-2018, the Elementary & Secondary Education Department, in consultation with the Establishment Department and the Finance Department, hereby lays down the method of recruitment, qualification and other conditions specified in Column No. 3 to 5 of the Appendix to the Notification which shall be applicable to the posts of Schools Management Cadre under the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar and Directorate of Curriculum & Teachers Education Khyber Pakhtunkhwa Abbottabad as specified in Column No. 2 of the said Appendix.

APPENDIX

Sl No	Nomenclature of the Post	Minimum Qualification for Appointment by Initial Recruitment or by Transfer	Age Limit	Method of Recruitment
	2	3	4	5
1	Director (BPS-20)	.....	.....	<p>By promotion, on the basis of seniority-cum-fitness, from amongst the District Education Officers and Additional Directors (Male and Female) with at least five year service in BPS-19 as such and having successful completion of Senior Management Course:</p> <p>Provided that if no suitable officer is available for promotion then by transfer of BPS-20 officer.</p> <p><b>Note:</b> For the purpose of promotion, a joint seniority list of District Education Officers and Additional Directors (Male and Female) shall be maintained.</p>

<p>District Education Officer/ Additional Director (BPS-19) (Male and Female)</p>			<p>"By promotion, on the basis of seniority-cum-fitness, from amongst the Deputy District Education Officers and Deputy Directors (Male and Female) with at least seven year service in BPS-18 or twelve year service in BPS-17 and above and such officer shall undergo six weeks post promotion training on the following modules, namely:</p> <ol style="list-style-type: none"> <li>i. Financial Management;</li> <li>ii. HR Management; and</li> <li>iii. Information Technology.</li> </ol> <p>Provided that if no suitable officer is available for promotion then by transfer of BPS-19 officer".</p>
<p>Deputy District Education Officer/Deputy Director (BPS-18) (Male and Female)</p>	<ol style="list-style-type: none"> <li>i. M.Phil in Education from recognized University with three years teaching or administrative experience in Government recognized educational institutions or offices; or</li> <li>ii. at least Second Class Master's Degree or BS (four years) and Bachelor's Degree of Education from recognized University with five years teaching or administrative experience in BPS-17 and above in Government recognized educational institutions or offices; or</li> <li>iii. at least Second Class M.A/M.Sc with Second Class M.Ed./M.A (Education Planning and Management) or equivalent qualification from a recognized University with at least five years teaching or administrative experience in Government recognized educational institutions or offices.</li> </ol>	<p>25 to 45 years</p>	<ol style="list-style-type: none"> <li>(a) Eighty Percent by promotion, on the basis of seniority-cum-fitness, from amongst the Sub-Divisional Education Officers and Assistant Directors (Male/Female) with at least five year service as such and such officers shall undergo six weeks post promotion training on following modules, namely:             <ol style="list-style-type: none"> <li>i. Financial Management;</li> <li>ii. HR Management; and</li> <li>iii. Information Technology;</li> </ol> <p>Provided that if no suitable officer is available for promotion then by transfer of BPS-18 officer"; and</p> </li> <li>(b) twenty percent by initial recruitment.</li> </ol>
<p>Sub-Divisional Education Officer/Assistant Director (BPS-17) (Male and Female).</p>	<ol style="list-style-type: none"> <li>i. At least Second Class M.A/M.Sc or BS (four years) from recognized University;</li> <li>ii. at least Second Class Bachelor's of Education from a recognized University; and</li> <li>iii. three years teaching or administrative experience in Government recognized institutions or offices.</li> </ol>	<p>21 to 40 years</p>	<ol style="list-style-type: none"> <li>(a) Eighty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Sub-Divisional Education Officers and Assistant District Education Officers (Male &amp; Female) with at least five years' service.</li> <li>Provided that if no suitable officer is available for promotion then by transfer of BPS-17 officer; and</li> <li>(b) Twenty percent by initial recruitment.</li> </ol>

Assistant Sub-Divisional Education Officer Assistant District Education Officer (BPS-16) (Male and Female)	<ol style="list-style-type: none"> <li>i. At least Second Class Bachelor's Degree or BS (four years) from a recognized University;</li> <li>ii. at least Second Class Bachelor's Degree of Education from a recognized University; and</li> <li>iii. five years teaching or administrative experience in Government recognized institutions or offices.</li> </ol>	25 to 35 years	<p>"By initial recruitment;</p> <p>Provided that if no suitable officer is available then by transfer of Secondary School Teacher (BPS-16) of Teaching Cadre.</p> <p><b>Note:</b> On induction, all such officers shall undergo six weeks post induction training on the following modules, namely:</p> <ol style="list-style-type: none"> <li>i. Financial Management;</li> <li>ii. HR Management; and</li> <li>iii. Information Technology" </li></ol>
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**SECRETARY TO  
GOVERNMENT OF THE KHYBER PAKHTUNKHWA  
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT**

**List of even No. & Date:-**

are forwarded to the:

1. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
2. Secretary to Governor, Khyber Pakhtunkhwa.
3. Secretary to Chief Minister, Khyber Pakhtunkhwa.
4. Chairman Khyber Pakhtunkhwa Public Service Commission, Peshawar.
5. Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
6. Directorate of Curriculum and Teachers Education Khyber Pakhtunkhwa Abbottabad.
7. All District Education Officers (Male/Female) in Elementary & Secondary Education Khyber Pakhtunkhwa.
8. Director Information Khyber Pakhtunkhwa Peshawar with the request to give wide publicity.
9. Manager Government Printing Press Peshawar for publication in the next issue of Govt. Gazette.
10. PS to Advisor to Chief Minister for E&SE Department Khyber Pakhtunkhwa Peshawar.
11. PS to Secretary E&SE Department, Khyber Pakhtunkhwa, Peshawar.
12. PS to Special Secretary E&SE Department, Khyber Pakhtunkhwa, Peshawar.
13. PA to Additional Secretary (Estab) E&SE Department, Khyber Pakhtunkhwa, Peshawar.
14. PA to Deputy Secretary (Admin) E&SE Department, Khyber Pakhtunkhwa, Peshawar.
15. All Section Officers E&SE Department Khyber Pakhtunkhwa, Peshawar.
16. Director EMIS E&SE Department with the request to upload the same on the web site of the Department.

*[Signature]*  
for SECTION OFFICER (SCHOOLS MALE)



District Education Officer/ Additional Director BPS-19) (Male and Female)			<p>"By promotion, on the basis of seniority-cum-fitness, from amongst the Deputy District Education Officers and Deputy Directors (Male and Female) with at least seven year service in BPS-18 or twelve year service in BPS-17 and above and such officer shall undergo six weeks post promotion training on the following modules, namely:</p> <ol style="list-style-type: none"> <li>i. Financial Management;</li> <li>ii. HR Management; and</li> <li>iii. Information Technology;</li> </ol> <p>Provided that if no suitable officer is available for promotion then by transfer of BPS-19 officer".</p>
Deputy District Education Officer/Deputy Director (BPS-18) (Male and Female)	<ol style="list-style-type: none"> <li>i. M.Phil in Education from recognized University with three years teaching or administrative experience in Government recognized educational institutions or offices; or</li> <li>ii. at least Second Class Master's Degree or BS (four years) and Bachelor's Degree of Education from recognized University with five years teaching or administrative experience in BPS-17 and above in Government recognized educational institutions or offices; or</li> <li>iii. at least Second Class M.A/M.Sc with Second Class M.Ed./M.A (Education Planning and Management) or equivalent qualification from a recognized University with at least five years teaching or administrative experience in Government recognized educational institutions or offices.</li> </ol>	25 to 45 years	<p>(a) Eighty Percent by promotion, on the basis of seniority-cum-fitness, from amongst the Sub-Divisional Education Officers and Assistant Directors (Male/Female) with at least five year service as such and such officers shall undergo six weeks post promotion training on following modules, namely:</p> <ol style="list-style-type: none"> <li>i. Financial Management;</li> <li>ii. HR Management; and</li> <li>iii. Information Technology;</li> </ol> <p>Provided that if no suitable officer is available for promotion then by transfer of BPS-18 officer"; and</p> <p>(b) twenty percent by initial recruitment.</p>
Sub-Divisional Education Officer/Assistant Director (BPS-17) (Male and Female).	<ol style="list-style-type: none"> <li>i. At least Second Class M.A/M.Sc or BS (four years) from recognized University;</li> <li>ii. at least Second Class Bachelor's of Education from a recognized University; and</li> <li>iii. three years teaching or administrative experience in Government recognized institutions or offices.</li> </ol>	21 to 40 years	<p>(a) Eighty percent by promotion, on the basis of seniority-cum-fitness, from amongst the Assistant Sub-Divisional Education Officers and Assistant District Education Officers (Male &amp; Female) with at least five years' service;</p> <p>Provided that if no suitable officer is available for promotion then by transfer of BPS-17 officer; and</p> <p>(b) Twenty percent by initial recruitment.</p>

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# ANNEXURE "E"



## GOVERNMENT OF KHYBER PAKHTUNKHWA ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar Phone Nos: (011-2221588)

Dated Peshawar the June 17<sup>th</sup>, 2022

### NOTIFICATION:

NO.SO(MC)E&SED/4-16/2022/PT/POSTING/TRANSFER/MC: The following posting / transfers of Officers of Elementary & Secondary Education Department are hereby ordered in the best public interest, with immediate effect: -

S#	Name & designation	From	To
1.	Muhanimad Idress (MC BS-19)	DEO (Male) Peshawar	Additional Director, Directorate of E&SE (Vice No-2)
2.	Mr. Sajjad Akbar (MC BS-19)	Additional Director, Directorate of E&SE	DEO (Male) Peshawar (Vice No-1)
3.	Mr. Zahid Hussain (MC BS-19)	Awaiting posting	DEO (Male) Torghar (AVP)
4.	Hafiz Muhammad Nawaz (MC BS-19)	Awaiting posting	DEO (Male) Battagram (Vice No-27)
5.	Mr. Liaqat Ali (MC BS-18)	Deputy DEO (Male) Mohmand	DEO (Male) Kurram in OPS (Vice No-6)
6.	Mr. Sultan Muhammad Principal (BS-19)	DEO (Male) Kurram	His services are placed at the disposal of Directorate of E&SE.
7.	Mr. Abdul Malik (MC BS-18)	Awaiting posting	DEO (Male) Charsadda in OPS (AVP)
8.	Mr. Umar Zaman Khan (MC BS-19)	Awaiting posting	DEO (Male) Kolal Palis (AVP)
9.	Mr. Sheraz Ahmad (MC BS-18)	DEO (Male) Karak	His services are placed at the disposal of Directorate of E&SE.
10.	Muhammad Sheraz (MC BS-19)	DEO (Male) Hangu	DEO (Male) Kohat (AVP)
11.	Muhammad Shaukat (MC BS-19)	DEO (Male) Abbottabad	DEO (Male) Mohmand (AVP)
12.	Mr. Abdur Rehman (MC BS-18)	Deputy DEO (Male) Dir Upper	DEO (Male) Kohistan Upper (AVP) in OPS
13.	Muhammad Amin (MC BS-19)	DEO (Male) Kohistan Upper	DEO (Male) Dir Lower
14.	Mr. Shireen Zada Principal (BS-18)	DEO (Male) Bajaur in OPS	His services are placed at the disposal of the Directorate of E&SE.
15.	Mr. Hidayatullah (MC BS-18)	Deputy DEO (Male) Malakand	DEO (Male) Bajaur in OPS (Vice No-14)
16.	Mr. Hayat Khan (MC BS-18)	Deputy DEO (Male) Peshawar	DEO (Male) Hangu in OPS (Vice No-10)
17.	Mr. Nisar Ahmad (MC BS-18)	Deputy DEO (Male) Hangu	DEO (Male) Tank in OPS (AVP)
18.	Muhammad Tanveer (MC BS-18)	DEO (Male) Manselva in OPS	DEO (Male) Abbottabad in OPS (Vice No-11)
19.	Mr. Muzaffar Ali (MC BS-18)	DEO (Male) Chitral Lower in OPS	DEO (Male) Shangla in OPS
20.	Mr. Mukhtar Ahmad (MC BS-18)	Deputy DEO (Male) Haripur	DEO (Male) Haripur in OPS (AVP)
21.	Mr. Mahmood Ghaznavi (MC BS-18)	DEO (Male) Chitral Upper in OPS	DEO (Male) Chitral Lower in OPS
22.	Mr. Mitah-ud-Din (MC BS-18)	Deputy DEO (Male) Dir Lower	DEO (Male) Chitral Upper in OPS (Vice No-21)

*Handwritten signature and initials*

P.T.O

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**GOVERNMENT OF KHYBER PAKHTUNKHWA**  
 ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT  
 Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar  
 Phone No. 921-922-1588

23.	Mr. Said Hussain Principal (BS-19)	DEO (Male) Khyber	His services are placed at the disposal of the Directorate of E&SE.
24.	Muhammad Uzair Ali (MC BS-19)	DEO (Male) Dir Lower	DEO (Male) Khyber (Vice No-23)
25.	Mr. Fareedullah Principal (BS-19)	DEO (Male) Orakzal	His services are placed at the disposal of the Directorate of E&SE.
26.	Mr. Atiq ur Rehman (MC BS-18)	Deputy DEO (Male) Karak	DEO (Male) Orakzal in OPS (Vice No-25)
27.	Mr. Bakht Zada Principal (BS-19)	DEO (Male) Battagram	His services are placed at the disposal of the Directorate of E&SE.
28.	Mr. Aurangzeb (MC BS-18)	Deputy DEO (Male) Shangla	DEO (Male) Karak in OPS (Vice No-9)
29.	Mr. Tahir Shah (MC BS-18)	Deputy DEO (Male) Nowshera	DEO (Male) Kohistan Lower (AVP)
30.	Mst. Samina Iltaf (MC BS-19)	Awaiting posting	DEO (Female) Battagram (AVP)
31.	Mst. Naghmana Sardar (MC BS-19)	DEO (Female) Mansehra	DEO (Female) Kohistan Lower (AVP)
32.	Mst. Rehana Yasmin (MC BS-18)	Deputy DEO (Female) Kolai Pallas (Kohistan)	DEO (Female) Mansehra in OPS (Vice No-31)
33.	Mst. Asmal Ara (MC BS-19)	DEO (Female) Dir Lower	DEO (Female) Bajaur (AVP)
34.	Mst. Haleema Bibi Principal (BS-19)	DEO (Female) Chitral Lower	Her services are placed at the disposal of Directorate of E&SE.
35.	Mst. Habiba Bibi Principal (BS-19)	DEO (Female) Kohistan Upper	Her services are placed at the disposal of Directorate of E&SE.

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

**Endst: of even No.& date:**

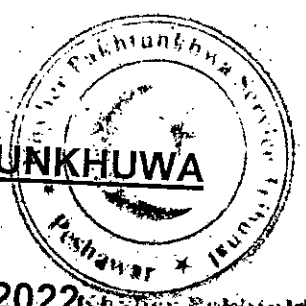
**Copy forwarded for information to the: -**

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

\*  
 (SECTION OFFICER (Management Cadre))

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**BEFORE THE BEFORE THE KHYBER PAKHTUNKHUWA  
SERVICE TRIBUNAL PESHAWAR**



Service Appeal No 950 Of 2022

Chyber Pakhtunkhwa  
Service Tribunal  
Peshawar  
Diary No. 406

Dated 23/6/2022

Haleema Bibi (BPS-19)  
District Education Officer (Female) Chitral Lower, Tehsil and  
District Chitral Lower

.....Appellant

**VERSUS**

1. Government of Khyber Pakhtunkhwa through Chief Secretary KPK at Civil Secretariat Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa Elementary and Secondary Education Department, at Civil Secretariat Peshawar.
3. Director Elementary and Secondary Education Department, at Civil Secretariat Peshawar.

.....Respondents

Filed to-day

Registrar

23/6/22

**APPEAL U/S 4 OF KHYBER PAKHTUNKHWA SERVICE  
TRIBUNAL ACT 1974, AGAINST THE ORDER DATED; 17-  
06-2022, VIDE WHICH THE APPELLANT HAS BEEN  
TRANSFERRED FROM DISTRICT EDUCATION OFFICER  
(FEMALE) CHITRAL LOWER AND HER SERVICES ARE  
PLACED AT DISPOSAL OF DIRECTORATE OF  
ELEMENTARY & SECONDARY EDUCATION.**

ATTESTED

*[Signature]*  
CHIEF CLERK  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

**PRAYER:**

On acceptance of the instant service appeal the impugned Order of Respondent No. 2 Dated; 17-06-2022 the Posting Transfer Order to the extent of the appellant may please be set-aside and declared as illegal and void-ab-initio and allowed to complete her tenure according to Posting Transfer Policy 2009.

**Respectfully Sheweth;**

Brief facts and grounds giving rise to the instant service appeal are as under;

**ON FACTS**

1. That the names and addresses of the parties have correctly been given in the head note of the instant service appeal, which are sufficient for the purpose of effecting their proper services and citation etc.
2. That the appellant is law abiding citizen of Islamic Republic of Pakistan and serving the respondents department as District Education Officer (Female) Chitral Lower (BPS-19).  
(Copy of CNIC is attached herewith as annexure "A")
3. That the appellant performing her duties in the respondent department quite efficiently and was posted as District Education Officer (Female) Chitral Lower in pursuance to Notification Dated; 08-02-2022.  
(Copy of Notification Dated; 08-02-2022 & Charge Assumption Report is Annexure "B")
4. That after assumption of charge the same posting transfer Notification of the appellant has been held in *abeyance* vide office order dated; 22-02-2022 and subsequently *restored* on dated; 05-04-2022.  
(Copy of both notification Dated; 22-02-2022 & Dated; 05-04-2022 are Annexure "C")
5. That after the restoration, performing her duty for 4 months the appellant has been again transferred vide Order Dated; 17-06-2022 and her services have been placed at the disposal of Directorate of Elementary and Secondary Education Khyber Pakhtunkhwa, hence; the departmental appeal / representation on the following grounds.  
(Copy of Transfers / Posting Order Dated; 17-06-2022 Annexure "D")

ATTESTED

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

6. That the appellant feeling aggrieved from the impugned notification, submitted Departmental Appeal before the appellate authority on dated; 20-06-2022 the same has been turn down on dated; 21.06.2022.


**(Copy of Departmental Appeal Dated; 20-06-2022 & Rejection dated; 21.06.2022 are Annexure "E")**

7. That the appellant having no other remedy but to file the instant service appeal on the following grounds among the others.


**GROUND**

- A. That the appellant throughout her career has performed her duties honestly, fairly, efficiently and to the satisfaction of her superiors, specially her tenure of service on the subject post was exemplary and outstanding and to improve the entire system of maintenance, administration and discipline. Furthermore her excellent service as DEO (Female) Chitral Lower has been highly appreciated by high ups of the department.
- B. That the impugned transfer order is in violation of Posting Transfer Policy 2009 as the appellant has been transferred 3 times within the tenure of 4 months without observing the policy in respect of span. This fact speaks volume in respect of malafide on the part of the respondent department.
- (Copy of posting transfer policy for DEO's is attached as annexure "F")**
- C. That the impugned transfer order is against the principle of wedlock policy as husband of appellant is serving in District Health Office Chitral Lower.
- D. That the appellant has not been treated in accordance with law, Rules and her rights guaranteed under the law therefore, this conduct of the respondents tantamount to naked violation of the provisions of the Civil Servants laws.

ATTESTED

  
 EXAMINER  
 Khuzdar District  
 Service Tribunal  
 Khuzdar

- E. That the discriminatory and repeated transfer order of civil servant within the span of a few months made by the respondents irrespective of the consideration of public interest and issuance of such orders without any rhyme or reason is mala fide, arbitrary, against the canon of justice, equity and fair play by the respondents.
- F. That there is no reasons for placing Civil Servant's services at the disposal of Directorate of Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar, for further posting civil servants were generally permitted to complete their normal tenure in case of transfer from one place to another, the appellant had earlier been posted as District Education Officer (Female) Lower Chitral vide order dated 08-02-2022 therefore, uprooting of Civil Servant from such post vide order dated; 17-06-2022 is deviation from such normal procedure for which even reasons were not assigned. Order of transfer, thus, smacked of arbitrariness.
- G. That the impugned Posting / Transfer Order has not been issued in public interest and is based on malafide which is evident from the facts that the post of DEO Female Chitral Lower has been kept vacant to accommodate someone the blue eyed.
- H. That the transfer posting order is made contrary to the relevant rules and against the public interest and without allowing the appellant to complete her tenure, this august Tribunal is empowered to examine such administrative action by applying the principle of judicial review.
- I. That the impugned order is not backed by any legal or cogent reason and is a classic case of illegal and irregular exercise of power and mis-use of authority.
- J. That the appellant has not been dealt in accordance to article 4 and 25 of the constitution of Islamic Republic of Pakistan.

ATTESTED  
  
KHYBER PAKHTUNKHWA  
Service Tribunal  
Peshawar

- K. That the appellant has rendered about 28 years exemplary and outstanding service to the department and is qualified committed and entitled to continue her services till her superannuation with all pending and upcoming promotions.
- L. That the acts and omission of respondent is against the KPK Civil Servant (Appointment, Promotion and Transfer rules 1989 as well as against the relevant provision of KPK Civil Service act 1973.
- M. That he instant appeal relates to terms and conditions of civil servant and this honorable tribunal has been vested with statutory power to entertain the matter.
- N. That patent discrimination and malafide of the respondents is apparent on the face of record. That the respondents violated Article, 4 of the Constitution of Islamic Republic of Pakistan, 1973 with its heading "Rights of Individual to be dealt with in accordance with the Law" it is mandatory for respondents to comply with law and rules in fair, equal and lawful manner as well as prohibitory for them to act in a manner which is not admissible in law/rules; hence their such act with effect to compel the Appellant for retirement is totally void.
- O. That from very prospect of the Constitution of Islamic Republic of Pakistan, 1973, and policies governing the subject Respondents have no excuse at all to avoid vested rights of the Appellant in matter of performance of service.
- P. That according to Article, 25 of the Constitution of Islamic Republic of Pakistan, 1973 all citizens are equal before Law and are entitled to equal protection of Law but the respondents violated this Article of the Constitution.
- Q. That act of respondents with effect to deny right to service of Appellant and their omission to protect the same is; against Article, 27 of the Constitution of Islamic Republic of Pakistan, 1973 with its heading "Safe Guard against discrimination in services".

ATTESTED  
  
 EXAMINER  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar



R. That the Appellant seeks leave of this Honourable Tribunal to argue/raise additional grounds at the time of arguments.

It is therefore humbly submitted on acceptance of the instant service appeal the impugned Order of Respondent No. 2 Dated; 17-06-2022 the Posting Transfer Order to the extent of the appellant may please be set-aside and declared as illegal and void-ab-initio and allowed to complete her tenure according to Posting Transfer Policy 2009.

Any such relief which this honorable court deems proper and just be granted to the Appellant against the respondents keeping in view the circumstances of the case.

Dated; 23-06-2022

Appellant

Through,

**SHER HYDER KHAN**  
ADVOCATE HIGH COURT  
LL.B (Hons), LL.M (I-L)

The Magister & Associates  
103, Said Anwar Plaza,  
Dabgari Gardens Peshawar Cantt  
Ph: 091-2214005 Cell: 0336-9377022

**CERTIFICATE:**

It is certified that no other service appeal on the same subject has been filed before this Honourable Tribunal.

Counsel

ATTESTED

**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

(9) (31)

**BEFORE THE BEFORE THE KHYBER PAKHTUNKHUWA  
SERVICE TRIBUNAL PESHAWAR**

**Service Appeal No**

**Of 2022**

**Haleema Bibi**

**VERSUS**

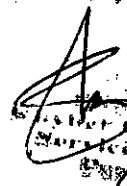
**Government of KPK through Chief Secretary & others**

**APPLICATION FOR SUSPENSION OF OPERATION OF  
THE IMPUGNED POSTING TRANSFER ORDER TO THE  
EXTENT OF THE APPELLANT DATED; 17-06-2022 TILL  
THE DISPOSAL OF THE ABOVE MENTIONED APPEAL.**

**Respectfully Sheweth;**

1. That the above mentioned appeal along with this application has been filed before this honorable service tribunal on which no date has been fixed.
2. That the appellant filed the above mentioned service appeal against the impugned notification dated; 17-06-2022, whereby the appellant has been transferred from District Education Officer (Female) Chitral Lower to Directorate of Elementary and Secondary Education Department, Peshawar.
3. That all the three ingredients necessary for the grant of Temporary Injunction is in favor of the appellant.
4. That the impugned order dated; 17-06-2022 has been issued by the respondents in utter disregard of law and prevailing rules.

**ATTESTED**

  
**CHIEF CLERK  
KHYBER PAKHTUNKHUWA  
SERVICE TRIBUNAL  
PESHAWAR**

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it is therefore, most humbly prayed that on acceptance of this application the impugned posting transfer order to the extent of the appellant dated; 17-06-2022 till the disposal of the above mentioned appeal.

Dated; 23-06-2022

Applicant

Through

**SHER HYDER KHAN**  
ADVOCATE HIGH COURT  
LL.B (Hons), LL.M (I-L)

The Magister & Associates  
103, Said Anwar Plaza,  
Dabgari Gardens Peshawar Cantt  
Ph: 091-2214005 Cell: 0336-9377022

Certified to be true copy

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar



24<sup>th</sup> June, 2022.

Appellant alongwith his counsel present.

Against the transfer order dated 17.06.2022, the appellant filed departmental appeal on 20.06.2022 which was filed by the Secretary to Government Of Khyber Pakhtunkhwa Elementary and Secondary Peshawar by putting an endorsement on the appeal that no further action shall be taken on the appeal which in a way was regret by the Secretary concerned compelling the appellant to file this appeal. It is submitted by the learned counsel for the appellant that just four months prior to the instant transfer the appellant was transferred and posted as DEO (F) Lower Chitral vide notification No. SO(S/F)E&SED/4-5/2021/Posting/Transfer dated 08.02.2022 and without allowing her to complete her normal tenure, she was again transferred and directed to report to the Directorate of Elementary and Secondary Education which act speaks about the malafide of the respondent-department. The appeal is thus admitted to full hearing subject to all just and legal objections by the other side. The appellant is directed to deposit security and process fee and security within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 19.07.2022 before S.B.

As to the application for suspension of the operation of the impugned order dated 17.06.2022, it is directed that the operation of the impugned order shall stand suspended to the extent of appellant till the next date subject to notice to the other side.

*(Handwritten signature)*

(Kalim Arshad Khan)  
Chairman

Date of Presentation of Application 24/6/22  
 Number of Words 4800  
 Copying Fee 50/-  
 Urgent 4/-  
 Total 54/-  
 Name of Copyist \_\_\_\_\_  
 Date of Completion of Copy 24/6/22  
 Date of Delivery of Copy 24/6/22

Certified to be true copy  
*(Handwritten signature)*  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar



No.F.6 (14)/2022-LGE (PEC)  
OFFICE OF THE  
PROVINCIAL ELECTION COMMISSIONER  
KHYBER PAKHTUNKHWA

Special Messenger  
TOP PRIORITY/LGE-2022  
Phone# 091-9222540  
091-9222549  
kardnako@gmail.com

The Secretary,  
Government of Khyber Pakhtunkhwa,  
Communication & Works Department,  
Peshawar.

Shami Road Peshawar  
February 12, 2022

Subject: - **BAN ON POSTING/TRANSFER.**

Dear Sir,

I am directed to refer to your office Notification No. SO/C&WD/3-1/2022, dated the 11<sup>th</sup> February, 2022 whereby your office has transferred some officers in those Districts where revised Election Schedule has been issued vide Election Commission of Pakistan, Islamabad Notification No.F.16(1)/2021-LGE-KP(Vol-I), dated the 09<sup>th</sup> February, 2022, wherein Election Commission of Pakistan vide above referred Notification has directed that "Districts in respect of which election schedule of local government elections has been issued, no transfers / postings of the Government Officers and Officials including Autonomous Bodies/ Authorities shall be made without prior approval of the Commission till the publication of election results".

2. I am further directed to request that the above mentioned Notification of your good office may kindly be rescinded or held in abeyance under intimation to this office in the larger national interest till the culmination of election process/publication of official result of the election, please.

Encs: As above.

*MASIR*  
12-02-022  
(MUHAMMAD NASIR KHAN)  
Deputy Director (LGE)

Copy forwarded for information to:-  
SO to Secretary, Election Commission of Pakistan, Islamabad.  
PSO to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.

(MUHAMMAD NASIR KHAN)  
Deputy Director (LGE)