

25th April, 2022

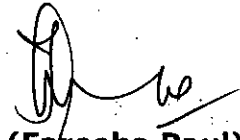
1. Learned counsel for the appellant present. Mr. Muhammad Riaz Khan Paindakheil, Assistant Advocate General for the respondents present.

2. Learned counsel for the appellant stated at the bar that the appellant has retired from service, therefore, this appeal has rendered fruitless. Disposed of accordingly. Consign.

3. *Pronounced in open Court at Peshawar and given under our hands and seal of the Tribunal on this 25th day of April, 2022.*



(Kalim Arshad Khan)
Chairman

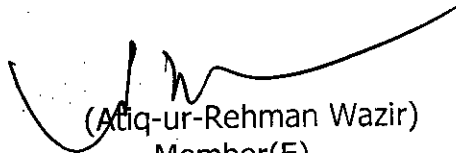


(Fareeha Paul)
Member (E)

12.01.2022

Learned counsel for the appellant present. Mr. Javed Ullah,
Assistant Advocate General for the respondents present.

Learned counsel for the appellant requested for adjournment.
Adjourned. To come up for arguments before the D.B on 25.01.2022.



(Atiq-ur-Rehman Wazir)
Member(E)


Chairman

25.01.2022

Clerk of the learned counsel for the appellant present.
Mr. Kabir Ullah Khattak Additional Advocate General for
respondents present.

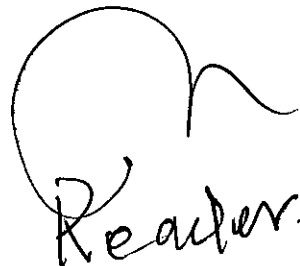
Clerk of the learned counsel for appellant stated that
learned counsel for appellant is unable to attend the Tribunal
today due to strike of lawyers. Adjourned. To come up for
arguments before the D.B on 10.02.2022.


(Rozina Rehman)
Member (J)


(Salah-Ud-Din)
Member (J)

10-2-2022

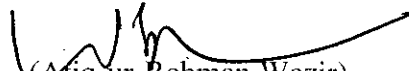
Due to retirement of the
Honorable Chairman the case is adjourned
to come up for the same as before
on 25-04-2022

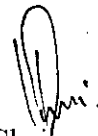

Reader.

02.03.2021

Junior to counsel for the appellant and Addl. AG for the respondents present.

Due to general strike on the call of Khyber Pakhtunkhwa Bar Council, the matter is adjourned to 9.04.2021 for hearing before the D.B.


(Atiq-ur-Rehman Wazir)
Member(E)


Chairman

9.4.21

due to COVID-19, the case is adjourned to 27.7.2021 for the same.




17.06.2021

None for the appellant present.

Mr. Adeel Butt, learned Additional Advocate General alongwith Mr. Hassan Shah, Assistant for respondents present.

Due to general strike of the Bar, case is adjourned to 03.09.2021 for arguments before the D.B.


(Rozina Rehman)
Member(J)


Chairman

03.09.2021

Due to summer vacations, the case is adjourned to 12.01.2022 for the same as before.



READER

14.01.2021

Junior to counsel for the appellant present. Addl: AG
alongwith Mr. Muhammad Saleem, SO for respondents
present.

Arguments could not be heard due to learned
Member(Judicial) is on leave.

Adjourned to 4.02.2021 for arguments before D.B.



(Mian Muhammad)
Member(E)

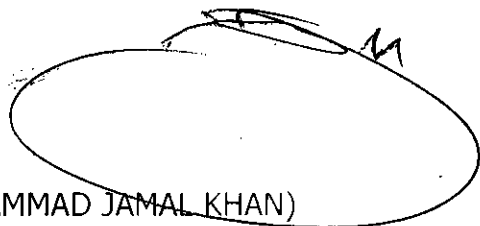
04.02.2021

Counsel for the appellant and Muhammad Rasheed Deputy District
Attorney alongwith Naseer-Ud-Din Assistant for the respondents present.

Learned counsel invited attention of the bench to the fact that
respondents have not submitted their respective reply till today. The
perusal of record confirmed as per search in this regard respondents are
going to submit reply today. The reply be submitted positively, however,
they are warned to be careful in future.

Adjourned to 02.03.2021 before D.B and in the meanwhile the
restraint order dated 11.11.2019 shall remain operative till the next date
of hearing.


(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)



(MUHAMMAD JAMAL KHAN)
MEMBER (J)


16.12.2020

Junior counsel for appellant present.

Riaz Khan Paindakheil learned Assistant Advocate General alongwith Rehman Ullah Assistant for respondents present.

Today, relevant documents were produced but senior counsel was stated to be busy in High Court. Last chance is given. To come up for arguments on 23.12.2020 before D.B.



(Atiq ur Rehman Wazir)
Member (E)



(Rozina Rehman)
Member (J)

23.12.2020

Mr. Khush Dil Khan, Advocate, for appellant is present. Mr. Riaz Ahmad Paindakheil, Assistant Advocate General and Mr. Fazle Wadood, Section Officer, for the respondents are also present.

Some record was produced on the previous date of hearing sans the summary and today Fazal Wadood, Section Officer, of the office concerned while appearing on behalf of respondents submitted that efforts were made for retrieval of summary but the same did not materialize as no record pertaining to summary is available. File to come up for arguments on 14.01.2021 before D.B and in the meanwhile the restraint order dated 11.11.2019 shall remain operative till the next date of hearing.


(ATIQU UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

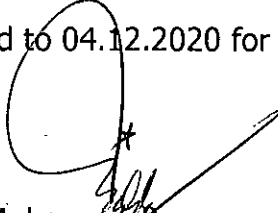

(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

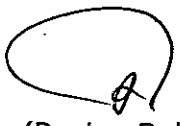
13.11.2020

Junior to counsel for appellant present.

Zara Tajwar learned Deputy District Attorney for respondents present.

Lawyers are on general strike, therefore, case is adjourned to 04.12.2020 for arguments, before D.B.


(Mian Muhammad)
Member (E)


(Rozina Rehman)
Member (J)

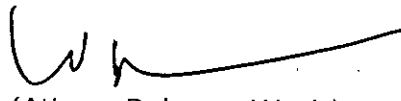
04.12.2020

Junior to counsel for the appellant present.

Riaz Khan Paindakheil learned Assistant Advocate General for respondents present.

Senior counsel (Rizwanullah Advocate) was stated to be indisposed. Last chance is given. In the meanwhile, representative of respondents is strictly directed to produce copy of summary as per order sheet dated 07.10.2020.

Adjourned to 16.12.2020 for arguments, before D.B.


(Atiq ur Rehman Wazir)
Member (E)

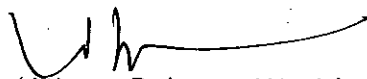

(Rozina Rehman)
Member (J)

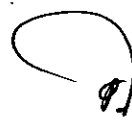
07.10.2020

Appellant alongwith counsel present.

Zara Tajwar, learned Deputy District Attorney for respondents present.

Learned counsel for appellant invited the attention to the order dated 03.03.2020 vide which the respondents have been directed to produce copy of summary on the basis of which the impugned order was passed but till today that summary was not produced before the court. Today respondents are once again directed to produce copy of summary on or before 27.10.2020 before D.B.


(Atiq ur Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

27.10.2020

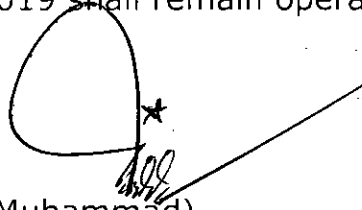
Proper D.B is on Tour, therefore, the case is adjourned for the same on 13.11.2020 before D.B.


Reader

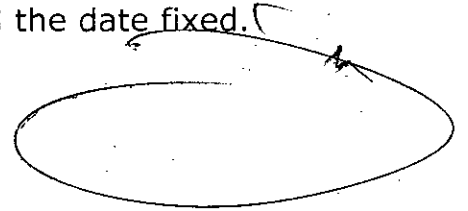
Service Appeal No. 1505/2019

01.09.2020

Learned counsel for the appellant is present. Mr. Muhammad Jan, Deputy District Attorney for the respondents is also present. Learned counsel for the appellant is seeking adjournment because of having some other engagements. The appeal is accordingly adjourned to 16.09.2020. In the meanwhile the restraint order dated 11.11.2019 shall remain operative till the date fixed.



(Mian Muhammad)
Member (Executive)



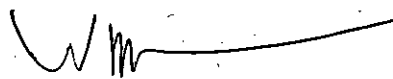
(Muhammad Jamal Khan)
Member (Judicial)

16.09.2020

Mr. Khushdil Khan, Advocate present on behalf of appellant.

Mr. Muhammad Jan learned Deputy District Attorney for respondents present.

Former requests for adjournment as learned senior counsel for appellant is indisposed; adjourned. To come up for arguments on 07.10.2020 before D.B. The restraint order dated 11.11.2019 shall remain operative till the date fixed.



(Atiq ur Rehman Wazir)
Member (E)



(Rozina Rehman)
Member (J)

02.07.2020

Due to Covid-19, the case is adjourned. To come up for the same on 17.07.2020 before D.B.

Reader

17.07.2020

Counsel for the appellant and Asstt. AG for the respondents present.

It appears that the record required through order dated 03.03.2020 has not yet been produced by the respondents. The same may be positively made available on the next date of hearing.

To come up for arguments on 29.07.2020 before the D.B. The restraint order dated 11.11.2019 shall remain operative till next date of hearing.

(Muhammad Jamal Khan)
Member

Chairman

29.07.2020

Mr. Khushdil Khan Advocate on behalf of learned counsel for the appellant and Mr. Ziaullah DDA for the respondents present.

Learned senior counsel for the appellant is indisposed, therefore, a request for adjournment is made at the bar. Adjourned to 01.09.2020. The restraint order dated 11.11.2019 shall remain operative till then.

(M. Jamal Khan)

Member

Chairman

3.03.2020

Counsel for the appellant present. Mr. Muhammad Jan, DDA for respondents present. Respondents are directed to produce copy of summary on the basis of which the impugned order was passed. Adjourned. To come up for such record and arguments on 30.03.2020 before D.B. The restraint order shall remain operative till next date.


Member


Member


01.04.2020 Due to public holiday on account of COVID-19, the case is adjourned to 09.06.2020 for same as before.


Reader

09.06.2020

Mr. Rizwanullah, Advocate on behalf of learned counsel for the appellant Mr. Khushdil Khan, Advocate appeared and seeks adjournment on the ground that learned counsel for the appellant is ill and cannot attend the Tribunal today. Mr. Riaz Ahmad Paindakheil, Assistant AG for the respondents present. To come up for record as mentioned in order sheet dated 03.03.2020 and arguments on 02.07.2020 before D.B. The restraint order shall remain operative till next date.


(Mian Muhammad)
Member


(M. Amin Khan Kundi)
Member

21.01.2020

Junior to counsel for the appellant and Addl. AG for the respondents present.

The respondents have not furnished the requisite reply/comments despite last opportunity. The matter is, therefore, posted to D.B for arguments on 04.02.2020. The restraint order shall remain operative till next date.

Chairman



04.02.2020


Clerk to counsel for the appellant and Mr. Ziaullah, Deputy District Attorney for the respondents present. Clerk to counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today due to general strike of Khyber Pakhtunkhwa Bar Council. Adjourned to 14.02.2020 for arguments before D.B. The restraint order shall remain operative till next date.



(Ahmad Hassan)
Member


(M. Amin Khan Kundi)
Member

14.02.2020

Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 03.03.2020 for arguments before D.B. The restraint order shall remain operative till next date.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

26.11.2019

Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Mr. Fazal Subhan, SO for respondents present.

Written reply/comments on behalf of the respondents not submitted. Learned District Attorney seeks time to submit the same.

Adjourned to 23/12/2019 before S.B. In the meanwhile, the impugned notification shall remain suspended, if not already complied with.



Chairman

23.12.2019

Counsel for the appellant present. Addl: AG for respondents present. Written reply not submitted. Requested for further time. Adjourned. To come up for written reply/comments on 06.01.2020 before S.B. In the meanwhile, the impugned notification shall remain suspended, if not already complied with.


Member

06.01.2020

Counsel for the appellant present. Nemo for the respondents.

Fresh notices be issued to the respondents for submission of written reply/comments on 21.01.2020 by way of last chance. The restraint order passed on 11.11.2019 shall remain operative till next date.


Chairman

Appeal No. 1505/2019
Mst. Taslim Begum vs Govt

11.11.2019

Counsel for the appellant present.

Contends that the impugned order dated 10.07.2019, whereby service of appellant was placed at the disposal of Directorate of Elementary & Secondary Education, was issued out of malafide on the part of the respondents. It was never made in the exigency of service nor in the public interest. Despite the impugned order, the appellant was issued a No Objection Certificate for proceeding to Saudi Arabia for performance of Hajj on 11.07.2019 which indicated that she was still performing duty as Principal, GGCHSS Peshawar. The two orders are contradictory to each other and reflect extraneous consideration on the part of the respondents. Referring to the record, it was contended that a Writ Petition was preferred by the husband of appellant against some appointments including that of the Advisor to the Chief Minister Khyber Pakhtunkhwa, E&SE. The impugned transfer order was thus motivated by political consideration and was counterblast to the Writ Petition No. 4784-P/2019. Learned counsel relied on PLD 2013-Supreme Court-195 to substantiate his arguments.

In view of the available record and arguments of learned counsel, instant appeal is admitted to regular hearing subject to all just exceptions. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 26.11.2019 before the S.B.

An application for suspension of operation of impugned order/notification dated 10.07.2019 has also been submitted alongwith the instant appeal. Notice of the application be given to the respondents for the date fixed. In the meanwhile, the impugned notification shall remain suspended, if not already complied with.

Appellant Deposited
Security & Process Fee

12/11/19

Chairman

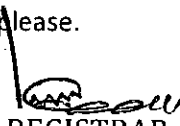



Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1505/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge		
1	2	3		
1-	08/11/2019	<p>The appeal of Mst. Tasleem Begum presented today by Mr. Khushdil Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 8/11/19</p> <p>2-</p>		<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>11-11-2019</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1505/2019

Mst. Taslim Begum,
Principal (BS-20),
Govt. Girls Comprehensive
Higher Secondary School Peshawar,.....Appellant.

Versus

The Chief Minister,
Province of Khyber Pakhtunkhwa,
Chief Minister's Secretariat,
Peshawar and others.....Respondents

INDEX


S.N	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal.			1-6
2.	Misc. Application for suspending the impugned transfer orders of appellant /applicant vide dated 11-07-2019 and 08-08-2019.			7-8
3.	Copies of the letters whereby Ex-Pakistan Leave was granted to appellant with No Objection Certificate.	11-07-2019	A	9-10
4.	Copy of the impugned Notification whereby the services of appellant was placed at the disposal of respondent No.5 with immediate effect till further order.	10-07-2019	B	0-11
5.	Copy of Departmental Appeal to respondent No.1 and its copies also sent to other respondents through registry post vide registry receipts dated 28-07-2019.	27-07-2019 & 28-07-2019	C	12-16
6.	Copy of the letter of the respondent No.5 to respondent No.4 therein proposed the adjustment of appellant at GGHSS No.1 Mardan.	08-08-2019	D	0-17

S.N	Description of Documents	Date	Annexure	Pages
7.	Copy of the Writ Petition vide No. 4784-P/2019 against the impugned orders dated 10-07-2019.		E	18-27
8.	Copy of Order Sheet thereby Status Quo was granted in favour of appellant.	03-09-2019	F	28-29
9.	Copy of application for withdrawal the Writ Petition No. 4784-P/2019	05-11-2019	G	30-31
10.	Copy of the Order of the Hon'ble High Court Peshawar thereby withdrawal of writ petition was allowed.	06-11-2019	H	0-32
11.	Copy of Writ Petition No. 3046-P/2019.		I	33-51
12.	Copy of the Order of the Hon'ble High Court Peshawar thereby Appointment Orders of Advisors and Special Assistants were suspended.	13-06-2019	J	0-52
13.	Copy of the Judgment in the Writ Petition No. 3046-P/2019.	26-06-2019	K	53-63
14.	Copy of Notification thereby the Order of Transfer of appellant was stayed by the respondent No.4.		L	0-64
15.	Wakalat Nama			

Through


Appellant

Khush Dil Khan
Advocate,
Supreme Court of Pakistan
9-B, Haroon Mansion,
Khyber Bazar, Peshawar.
Cell # 091-2213445


Ashraf Ali Khattak
Advocate,
High Court, Peshawar

Dated: 07 / 11 / 2019

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1505 /2019

Mst. Taslim Begum,
Principal (BS-20),
Govt. Girls Comprehensive
Higher Secondary School Peshawar,.....Appellant.

Khyber Pakhtunkhwa
Service TribunalDiary No. 1592Dated 08/11/2019

Versus

1. The Chief Minister,
Province of Khyber Pakhtunkhwa,
Chief Minister's Secretariat, Peshawar.
2. The Chief Secretary,
Govt. of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.
3. The Advisor to Chief Minister,
Govt. of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department,
Peshawar.
4. The Secretary,
Govt. of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department,
Civil Secretariat, Peshawar.
5. The Director,
Elementary & Secondary Education Department,
Khyber Pakhtunkhwa, Peshawar.....Respondents.

Filed to-day

Registrar

8/11/19

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 10-07-2019 THEREBY THE SERVICES OF APPELLANT WAS PLACED HER SERVICE AT THE DISPOSAL OF DIRECTORATE (RESPONDENT NO.5) FOR FURTHER ORDERS AGAINST WHICH SHE FILED DEPARTMENTAL APPEAL ON 28-07-2019 UNDER THE REGISTER POST FROM THE COUNTRY OF SAUDI ARABIA AS DURING THAT PERIOD SHE WAS IN HAJJ PERFORMANCE BEFORE THE RESPONDENT NO.1 WHICH WAS NOT RESPONDED WITHIN THE STATUTORY PERIOD OF 90 DAYS.

Respectfully Sheweth,

Facts giving rise to the present **Service Appeal** are as under:

1. That appellant is the most Senior Officer (Female) of Teaching Cadre (BS-20) of the E&SE department, at the passing of impugned order dated 10-07-2019, she holding the post of Principal (BS-20) Govt. Girls Comprehensive Higher Secondary School Peshawar.
2. That appellant had applied for Hajj Programme, 2019 alongwith her spouse and daughter through Government Scheme vide applications No. 1371493 + 3 and 1371492 + 4 which were accepted through ballot and then she applied for Ex-Pakistan Leave which was duly sanctioned after due process w.e.f 15-07-2019 to 26-08-2019, vide letter No. 2693 / A-12 / Leave Vol.65, dated 11-07-2019 and likewise No Objection Certificate (NOC) was also issued to her vide Endst. No. 2694 – 96 /A -12 / Leave Vol 63, dated 11-07-2019 by the respondent No.5. Copies of the letters dated 11-07-2019 are attached as **Annexure-A**.

3. That on 10-07-2019, the respondent No.4 (Secretary) issued the impugned Notification whereby the services of appellant was placed at the disposal of respondent No.5 which was passed during the ban period. Furthermore the impugned Notification was passed at the back date about which appellant was kept unaware but later on she was informed by private source when she was busy in the performance of Hajj in Saudi Arabia from where she has sent departmental appeal under registry post on 28-07-2019 to respondent No.1 and its copies were also sent to respondents No.2, 4 & 5 under the registry post on same date. **The copies of impugned Notification as Annexed-B and Departmental Appeal with registry receipts as Annexed-C.**

4. That meanwhile respondent No.5 has proposed the adjustment of appellant at GGHSS No.1 Mardan **vide letter dated 08-08-2019 (Annexure-D) addressed to respondent No.4** which was not materialized. Since both the impugned orders were tainted with malafide intention, based on political victimization and at the moment, no adequate and efficacious remedy was available to appellant therefore she was constrained to challenge the impugned orders in the Hon'ble High Court, Peshawar through **Writ Petition No. 4784-P/2019** which was preliminary heard on 03-09-2019, resultantly notice was issued to the Worthy Advocate General for 19-09-2019 and **meanwhile Status Quo was maintained.** Copies of Writ Petition No. 4784-P/2019 attached as **Annexure-E** and Order Sheet dated 03-09-2019 as **Annexure-F.**

5. That on expiry of 90 days from the date of appellant's Departmental Appeal then she submitted an application in the Hon'ble High Court Peshawar for withdrawal the above mentioned writ petition in order to file Service Appeal in this Hon'ble Tribunal which was allowed accordingly vide order dated 06-11-2019. Copies of application for withdrawal attached as **Annexure-G** and the Order Sheet dated 06-11-2019 as **Annexure-H**.

Hence this Service Appeal is submitted on following amongst other grounds;

- A. That impugned Notification dated 11-07-2019 was without lawful authority being prompted by political interference issued after thought with malafide intention in the back date after her departure to Saudi Arabia on 15-07-2019 while till 14-07-2019 she was on duty and this fact is further supported that Annexure-A regarding her Ex-Pakistan Leave and NOC issued on 11-07-2019 which was delivered to her on 12-07-2019 and during this period the impugned order was not in field.
- B. That the impugned Notification dated 11-07-2019 was passed during the ban period and in this particular case, the ban was relaxed without cogent reasons and cause which shows the malafide of the respondents, purposely done it just to give mental torture when she was away in connection of her performance of Hajj. Thus the impugned order is unfair, unjust, without lawful authority, malafide, violative of the policy on subject and liable to be set aside.
- C. That the impugned order was prompted by the political interference and passed at the instance of respondent No.3

in revengeful manner because he was annoyed on challenging and suspension of his appointment as Advisor to Chief Minister for Elementary & Secondary Education Department and others by the spouse of appellant who is sitting Member of provincial Assembly Khyber Pakhtunkhwa through Writ Petition No. 3046-P/ 2019 in the Hon'ble Peshawar High Court which was later on dismissed on 26-06-2019 against which he filed CPLA No. 2807/2019 in the Hon'ble Supreme Court of Pakistan which is still pending for hearing. Thus the impugned orders are unjustified and based on political victimization liable to be set aside. Copies of Writ Petition No.3046-P/2019 as Annexure-I, Interim Order as Annexure-J and Judgment as Annexure-K.

- D. That the impugned order neither passed in exigency of service nor in the public interest or on any complaint from any quarter otherwise she having very clean and excellent service record spreading over more than 29 years at her credit and now she is at the verge of retirement.
- E. That the impugned order passed during the ban period and in this particular case the same was allegedly relaxed without cogent reasons and cause which shows the malafide of the respondent authorities having ulterior motives.
- F. That appellant is still holding the same post on the strength of the order of Hon'ble High Court Peshawar and performing her duties in the same School regularly.

It is, therefore, humbly prayed that on acceptance of this service appeal, the impugned orders dated 10-07-2019

and 08-08-2019 may graciously be declared unfair, unjust, void, illegal, without lawful authority, mala fide, political victimization and violative of the policy on subject and be set aside.

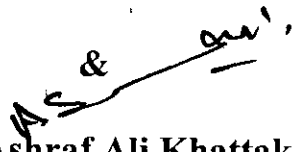
It is further prayed that appellant may kindly be retained at her original place of work i.e Principal GGCHSS, Peshawar without any further disturbance on political ground.

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

Through


Appellant

Khush Dil Khan,
Advocate,
Supreme Court of Pakistan


Ashraf Ali Khattak,
Advocate,
High Court, Peshawar

Dated: 07 / 11 / 2019

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Misc. Application No. _____/2019

IN

Service Appeal No. _____/2019

Mst. Taslim Begum,
Principal (BS-20),
Govt. Girls Comprehensive,
Higher Secondary School Peshawar,.....Appellant.

Versus

The Chief Minister,
Province of Khyber Pakhtunkhwa,
Chief Minister's Secretariat,
Peshawar and others..... Respondents

**APPLICATION FOR SUSPENDING THE OPERATION OF
IMPUGNED ORDERS DATED 10-07-2019 AND 08-08-2019 TILL
THE FINAL DECISION OF THE INSTANT APPEAL.**

Respectfully Sheweth,

1. That the above titled service appeal is being filed today which is yet to be fixed for hearing.
2. That the facts alleged and grounds taken in the body of main appeal may kindly be taken as an integral part of this application, which make out an excellent prima facie case in favour of appellant/applicant.
3. That all the ingredients as necessary for temporary injunction under the law and rules lie in favour of appellant.
4. That the impugned orders pertaining to transfer and proposed adjustment of appellant are prompted by the political interference with the malafide intention and ulterior motives. Neither the same

have been passed in the exigency of service nor in the public interest rather the same was passed during the ban period in violation of posting and transfer policy on subject. Since at the moment, an adequate and efficacious remedy was not available therefore she challenged the impugned order of her transfer in the Hon'ble High Court Peshawar through Writ Petition No. 4784-P/2019 in which interim relief was granted which was acted upon by the respondent department and appellant is still working as Principal GGCHSS Peshawar continuously as evident from the Notification issued on 25-10-2019 (Annexure-L) by the respondent No.4 (Secretary).

It is, therefore, humbly prayed that on acceptance of this application, the operation of the impugned orders dated 10-07-2019 and 08-08-2019 may graciously be suspended in the continuity of the order of the Hon'ble High Court Peshawar till the final decision of the attached service appeal.

Through

Appellant

Khush Dil Khan,
Advocate,
Supreme Court of Pakistan

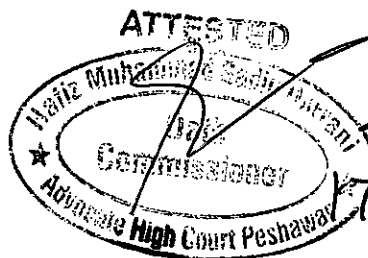
Ashraf Ali Khattak,
Advocate,
High Court, Peshawar

Dated: 07 / 11/ 2019

AFFIDAVIT

I, Mst. Taslim Begum, Principal (BS-20), Govt. Girls Comprehensive, Higher Secondary School Peshawar, do hereby solemnly affirm and declare on oath that the contents of this application are true and correct to the best of my knowledge and nothing has been concealed from this Hon'ble Tribunal.

08 NOV 2019



Deponent

17301-1241387-2

(Better Copy)

Annex - A
P-09

DIRECTORATE OF ELEMENTARY &
SECONDARY EDUCATION KHYBER
PAKHTUNKHWA PESHAWAR

NO.2693 /A - 12/ LEAVE VOL.63
DATED PESHAWAR THE: 11 / 7 / 2019

To

The Section Officer Audit
Elementary & Secondary Education Department

Subject:- Grant of Ex-Pakistan Leave

Dear Sir,

I am directed to refer to the subject cited above and to enclose herewith an application in original alongwith leave admissibility report and other documents in respect of Mst. Taslim Begum Principal BS-20 GGCHSS Dabgari Peshawar received from DEO (F) Peshawar vide No. 2982 dated 10/07/2019 for grant of Ex-Pakistan e.e.f 15/07/2019 to 26/08/2019 (43 days) on full pay for further necessary action please.

S.No.	Details	
i.	Name:- Taslim Begum	CNIC No. 17301-1241387-2
ii.	Substantive Basic Scale	BPS-20
iii.	Leave applied for (days)	43 days
iv.	Type of leave i.e. EOL Earned leave etc. etc	Ex-Pakistan Leave
v.	Will the applicant be in Pakistan or leaving for abroad	Abroad
vi.	Exact date of availing	15/07/2019
vii.	Reason for leave	Performance of Hajj
viii.	Personal number	00022859
ix.	Previous leave record	81 days 27/8/2018 to 18/11/2018
x.	Length of Service	34 years 04 months 10 days

Sd/-

Deputy Director (Female)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

Endst: No. _____

Copy to the:-

1. DEO (F) Peshawar w/r to her letter No. & date cited above
2. PA to Director E&SE Education Khyber Pakhtunkhwa Peshawar.

ATTESTED

Sd/-

Deputy Director (Female)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

original photo copy

Annex - A

DIRECTORATE OF ELEMENTARY &
SECONDARY EDUCATION KHYBER
PAKHTUNKHWA PESHAWAR

P-09

NO. 2693 /A-12/Leave Vol.63

Annex A

DATED PESHAWAR THE: 11 / 7 / 2019.

To

The Section Officer Audit
Elementary & Secondary Education Department

Subject: - Grant of Ex-Pakistan Leave
Dear Sir,

I am directed to refer to the subject cited above and to enclose herewith an application in original alongwith leave admissibility report and other documents in respect of Mst. Taslim Begum Principal BS-20 GGCHSS Dabgari Peshawar received from DEO (F) Peshawar vide No.2982 dated 10/07/2019 for grant of Ex-Pakistan w.e.f 15/07/2019 to 26/08/2019 (43 days) on full pay for further necessary action please.

S.No.	Details	
i.	Name:- Taslim Begum	CNIC No. 17301-12-1387-2
ii.	Substantive Basic Scale	BPS-20
iii.	Leave applied for (days)	43 days
iv.	Type of leave i.e EOL Earned leave etc.etc	Ex-Pakistan Leave
v.	Will the applicant be in Pakistan or leaving for abroad	Abroad
vi.	Exact date of availing	15/07/2019
vii.	Reason for leave	Performance of Hajj
viii.	Personal number	00022855
ix.	Previous leave record	81 days 27/8/2018 to 18/11/2018
x.	Length of Service	34 years 04 months 10 days

[Signature]
Deputy Director (Female)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

Encls: No. _____

Copy to the:-

1. DEO (F) Peshawar w/r to her letter No. & date cited above.
2. PA to Director E&SE Education Khyber Pakhtunkhwa Peshawar.

ATTESTED

[Signature]
Deputy Director (Female)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

OFFICE OF THE DIRECTOR-ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKWA PESHAWAR

No Objection Certificate

This Directorate has no objection in respect of Mst. Taslim Begum Principal
BS-20 GGCHSS Peshawar on her proceedings to Saudi Arabia for performance of Hajj w.e.f
15/7/2019 to 26/8/2019.

DIRECTOR
ELEMENTARY & SECY; EDUCATION
KHYBER PAKHTUNKHWA

Dated 11/7/2019

Endst: No. 9694-96 /A-12 / Leave Vol-63

Copy of the above is to the:-

1. District Education Officer (F) Peshawar
2. Principal GGCHSS Peshawar
3. PA to Director (E&SE) Khyber Pakhtunkhwa, Peshawar.
4. M/File.

DEPUTY DIRECTOR (FEMALE)
ELEMENTARY & SECY; EDUCATION
KHYBER PAKHTUNKHWA

ATTESTED

(Better Copy)

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
Block "A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone: 091-9210480. Fax # 091-9211419

Dated Peshawar the July 10th, 2019

NOTIFICATION

No.SO(S/F)E&SED/4-16/2019/Mst.Tasleem Begum/Principal/Peshawar; Consequent upon the approval and in relaxation of ban by the Competent Authority: the services of Mst. Tasleem Begum, Principal (BS-20) GGCHSS Peshawar is hereby placed at the disposal of Directorate of E&SE in the public interest with immediate effect till further orders.

No TA/DA allowed.

Secretary
Elementary & Secondary Education
Department

Endst: of even No. & date:

Copy forwarded to the:

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Director E&SE Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Female) Peshawar.
4. District accounts Officer Peshawar.
5. In charge EMIS, E&SE Department for uploading at official website.
6. PS to Secretary E&SE Department.
7. Principal concerned.
8. Office order file.

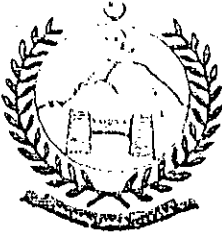
Sd/-
(GUL RUKH)
SECTION OFFICER (SCHOOLS FEMALE)

ATTESTED

original photo copy

Annex - B

Annex B P-10



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone: 091-9210480, Fax # 091-9211419

Dated Peshawar the July 10th, 2019

NOTIFICATION

No. SO(S/E)E&SED/4-16/2019/Mst. Tasleem Begum/Principal/Peshawar. Consequent upon the approval and in relaxation of ban by the Competent Authority; the services of Mst. Tasleem Begum, Principal (BS-20) GGCHSS Peshawar is hereby placed at the disposal of Directorate of E&SE in the public interest with immediate effect till further orders.

No TA/DA allowed.

SECRETARY
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Endst: of even No. & date:

Copy forwarded to the:

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Director E&SE Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Female) Peshawar.
4. District Accounts Officer Peshawar.
5. In charge EMIS, E&SE Department for uploading at official website.
6. PS to Secretary E&SE Department.
7. Principal concerned.
8. Office order file

(GUL BUKH)

SECTION OFFICER (SCHOOLS FEMALE)

ATTESTED

To

Annex - C

①

P-12

The Chief Minister,
Province of Khyber Pakhtunkhwa,
Chief Minister's Secretariat,
Peshawar.

Through Proper channel

Subject: Departmental appeal against the
impugned Notification of transfer
dated 10.07.2019.

Respected Sir,

I have the honour to submit this
departmental appeal on the following facts and
grounds for your kind consideration and
necessary action.

(1) That I, appellant, the most senior officer
of teaching cadre of Ex SE Dept; and
also at the verge of retirement. At the time
of passing the impugned Notification of my
Transfer, holding the post of Principal Bs. 20
GGCHSS, Peshawar.

(2) I and my spouse, Namely Khush Dil Khan
applied for Hajj Program, 2019 through
Government scheme vide application No.
1371493+3 and 1371492+4 which have
been accepted through ballot and then I
applied for Ex-Pakistan Leave which was

ATTESTED

Sactioned after due process vide Letter No. 2693 / A-12 / Leave vol. 65, dated 11.07.2019 on the basis of which, No objection certificate was also issued to me on my proceeding to Saudi Arabia for performance of Hajj w.e.f 15.07.2019 to 26.08.2019, vide Endst. No. 2694-96 / A-12 / Leave vol 63, dated 11.07.2019 by the Director E & SE, Khyber Pakhtunkhwa.

- (3) on 15.07.2019, I and my spouse proceeded to Saudi Arabia as per Hajj Schedule. During my stay in Saudi Arabia, I came to know about the impugned Notification of my transfer. Thereby, I have been transferred from GGCHSS, Peshawar as principal and placed at the disposal of Directorate with immediate effect for further posting of which I am aggrieved and sending this Deptt; appeal from Saudi Arabia through Fax / Registered Post.

Thus the impugned Notification is illegal, unjustified and tainted with malafide intention and based on political victimization and not tenable liable to be set aside / cancelled on the following grounds.

- (A) The impugned Notification is unfair, unjust, after thought and based on malafide as the same was issued in the back date after my departure to Saudi Arabia 15.07.2019 for the season, that till 14.07.2019 I was on duty and

ATTESTED

no such order was in field and communicated to me although my granting Ex. Pakistan Leave and NOC were sanctioned on 11.07.2019 but the same was delivered to me on 12.07.2019.

(B) That impugned Notification of my transfer is prompted with political victimization for the reason that my spouse is a sitting member of Provincial Assembly ^{and} at opposition Benches who had recently challenged the appointment of Advisors including advisor for E & SE and special Assistants to your honour (Chief Minister) in the Peshawar High Court through W.P. No 3046-P / 2019 and their appointment Notifications have been suspended vide order dated 13.06.2019 but later on, the said petition was dismissed on 26.06.2019 against which he filed CPLA No. _____ in the honorable Supreme Court of Pakistan. The Provincial government was annoyed in general while Advisor for E & SE was in particular. So at his instance impugned Notification was passed which is not warranted by law, rules and policy, having no legal sanctity liable to be set aside.

(C) That ~~an~~ ^{The} impugned order is unjustified and without reason, being a single order of an individual and no order of another incumbent against her post has yet been made. It shows that this impugned order


ATTESTED

is neither passed in the public interest nor on any complaint rather the same is passed for ulterior motives and pressurized me for the act of others.

- (D) That the impugned order has not passed by the competent authority and passed when I was on Hajj leave. Thus the impugned Notification is incompetent and without lawful authority liable to be set aside.
- (E) That I have served the deptt for more than 34 years with excellent service record, good reputation of integrity, honesty, efficiency and punctuality.

I therefore humbly pray that on acceptance of this departmental appeal, the impugned notification of my transfer, dated 10-07-2019, may kindly be cancelled and I may graciously be restored to original post of Principal GGCHSS, Peshawar.

Dated: 27.07.2019


Yours Faithfully,
Taslim Begum
Principal GGCHSS,
Peshawar under transfer
to office of Director.

ATTESTED

Mail Address: 9-B Hatoon
Mansion, Khyber Bazaar,
Peshawar City.

copy to Director E & SE Department, Khyber Pakhtunkhwa for further forwarding to appellate authority.

P.T.O.

2, The Secretary, Elementary + Secondary Education
Department Khyber Pakhtunkhwa Secretariat
Peshawar

3, The Chief Secretary,
Govt. of Khyber Pakhtunkhwa
Civil Secretariat Peshawar

ATTESTED

ATTESTED



البريد السعودي

الرقم التصديقي: 300002621100003

كدي 220765

11:32AM 28/07/19

6821-1459-1-732649-2

Ah Husam Bajahlan

6821-1459-1-493-1

رقم التاليف

رقم الكاوير

رقم الخطه

السلع	الكمية	الوزن (كغ)	الصفحة
SR 4.00	1	0.030	الرسائل العادية

وجهه الوصول: باكستان
RR081183301SA: رقم الحاقه

فيمه الضريبة على الخدمة 0% (صفر) ريال سعودي

موقوف بعد اطلاق الطرد في حال لم يتم تحديد عنوان الإعادة

SR 25.00	5		الرسائل العادية
SR 4.00	1	0.030	

وجهه الوصول: باكستان
RR081183315SA: رقم الحاقه

فيمه الضريبة على الخدمة 0% (صفر) ريال سعودي

SR 4.00	1	0.030	الرسائل العادية
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وجهه الوصول: باكستان
RR061183329SA: رقم الحاقه

فيمه الضريبة على الخدمة 0% (صفر) ريال سعودي

SR 4.00	1	0.030	الرسائل العادية
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وجهه الوصول: باكستان
RR081183332SA: رقم الحاقه

فيمه الضريبة على الخدمة 0% (صفر) ريال سعودي

SR 4.00	1	0.030	الرسائل العادية
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وجهه الوصول: باكستان
RR081183346SA: رقم الحاقه

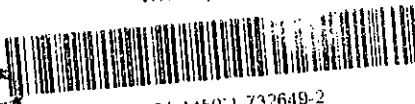
فيمه الضريبة على الخدمة 0% (صفر) ريال سعودي

السلع	الضريبة	VAT
SR 45.00		
SR 45.00		

السلع مع الضريبة

بها

www.sp.com.sa



6821-1459-1-732649-2

ATTESTED

Annexure = D

P-17

(123)

DIRECTORATE OF ELEMENTARY &
SECONDARY EDUCATION KHYBER
PAKHTUNKHWA PESHAWAR..

NO. 1260 /F.No. A-12/Transfer Vol-61 A
DATED PESHAWAR THE: 28/8/2019.

To

The Secretary to Govt: of Khyber pakhtunkhwa,
E&SE Department, Peshawar.

Subject:- Transfer Proposal
Memo:-

I am directed to refer to Govt: of Khyber Pakhtunkhwa, E&SE Department letter
No: SO(S/F)E&SED/4-16/2019 /Mst: Tasleem Begum /Principal/Peshawar dated 10/7/2019 on
the subject cited above & to state that one Mst: Tasleem Begum Principal BPS-20 GGCHSS
Peshawar place at the disposal of this Directorate vide your office Notification dated referred
above may please be adjust at GGHSS No: 1 Mardan against vacant post of Principal BPS-20,
please.

Hand
Deputy Director (Estab/F)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

ATTESTED
Hand

Annexure = E
P-18

9

IN THE PESHAWAR HIGH COURT PESHAWAR

WRIT PETITION No. 4784/2019

Mst. Taslim Begum,
Principal (BS-20),
Govt. Girls Comprehensive,
Higher Secondary School Peshawar,
Presently under transfer & Placed at the disposal of Directorate of Elementary
& Secondary Education,
Peshawar.....Petitioner.

Versus

The Chief Minister,
Province of Khyber Pakhtunkhwa,
Chief Minister's Secretariat,
Peshawar and others.....Respondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Writ Petition with Affidavit			1-6
2.	Memo of Addresses of Parties			7-8
3.	Copies of the letters whereby Ex-Pakistan Leave was granted to petitioner with No Objection Certificate.	11-07-2019	A	9-10
4.	Copy of the impugned Notification whereby petitioner was transferred from the post of Principal and placed at the disposal of Directorate for further order.	10-07-2019	B	0-11
5.	Copy of Departmental Appeal with the receipts of registry posts from Saudi Arabia.	28-07-2019	C	12-16
6.	Copy of the letter where petitioner's further transfer was proposed to district Mardan.	08-08-2019	D	0-17
7.	Copy of Writ Petition No. 3046-P/2019 filed as Khush Dil Khan Advocate / MPA Vs The Governor of KPK and others.		E	18-36
8.	Copy of Interim Order whereby the appointments of respondents No.3 and others were suspended.	13-06-2019	F	0-37
9.	Copy of judgment whereby the above referred writ petition was dismissed.	26-06-2019	G	38-48
10.	Stamp Paer			
11.	Wakalat Nama			

ATTESTED

Through

Petitioner

Abdul Latif Afridi

IN THE PESHAWAR HIGH COURT PESHAWAR

WRIT PETITION No. ⁴⁷⁸⁴~~684~~ /2019

1. Mst. Taslim Begum,
Principal (BS-20),
Govt. Girls Comprehensive,
Higher Secondary School, Peshawar,
Presently under transfer & Placed at the disposal of Directorate of
Elementary & Secondary Education,
Peshawar.....Petitioner.

Versus

- 1. The Chief Minister,
Province of Khyber Pakhtunkhwa,
Chief Minister's Secretariat, Peshawar.
- 2. The Chief Secretary,
Govt. of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.
- 3. The Advisor to Chief Minister,
Govt. of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department,
Peshawar.
- 4. The Secretary,
Govt. of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department,
Civil Secretariat, Peshawar.
- 5. The Director,
Elementary & Secondary Education Department,
Khyber Pakhtunkhwa, Peshawar.....Respondents.

ATTESTED

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

Respectfully Sheweth,

The concise facts giving rise to the present writ petition are as under:-

1. That petitioner is the most Senior Officer of Teaching Cadre (BS-20) of the respondents department, at the passing of impugned order dated 10-07-2019, she holding the post of Principal (BS-20) Govt. Girls Comprehensive Higher Secondary School Peshawar. Moreover she is also at verge of retirement.
2. That petitioner had applied for Hajj Programme, 2019 alongwith her spouse and daughter through Government Scheme vide applications No. 1371493 + 3 and 1371492 + 4 which were accepted through ballot and then she applied for Ex-Pakistan Leave which was duly sanctioned after due process w.e.f 15-07-2019 to 26-08-2019, vide letter No. 2693 / A-12 / Leave Vol.65, dated 11-07-2019 and likewise No Objection Certificate (NOC) was also issued to her vide Endst. No 2694 - 96 / A -12 / Leave Vol 63, dated 11-07-2019 by the respondent No.5. Copies of the letters dated 11-07-2019 are attached as Annexure-A.
3. That on 10-07-2019, the respondent No.3 issued the impugned Notification whereby petitioner was transferred and her services was placed at the disposal of respondent No.5 which was passed during the ban period. Further more the impugned Notification was passed at the back date about which petitioner was kept unaware but later on she was informed by private source when she was busy in the performance of Hajj in Saudi Arabia from where she has sent departmental appeal under registry post on 28-07-2019 to respondent No.1 and its copies were also sent to respondents No.2, 4 & 5 under the registry post on same date. The copies of impugned Notification as Annexed-B and Departmental

ATTESTED

respondent No.5 has proposed her transfer and adjustment at Govt. Girls Higher Secondary School No.1 Mardan vide letter No. 1260 / F.No. A-12/Transfer Vol-61 A dated 08-08-2019 as Annexed-D.

4. That since the impugned order is tainted with malafide intention and based on political victimization of which petitioner is aggrieved and finding no adequate and efficacious remedy is constrained to file this petition on the following amongst other grounds:

A. That impugned Notification is without lawful authority being prompted by political interference issued after thought with malafide intention in the back date after her departure to Saudi Arabia on 15-07-2019 while till 14-07-2019 she was on duty and this fact is further supported that Annexure-A regarding her Ex-Pakistan Leave and NOC issued on 11-07-2019 which was delivered to her on 12-07-2019 and during this period the impugned order was not in field.

B. That the impugned Notification was ordered at the instance of respondent No.3 during ban period and in this special case the ban was relaxed without cogent reasons and cause which shows the malafide of the respondents, purposely done it just to give mental torture when she was away in connection of her performance of Hajj. Thus the impugned order is unfair, unjust, without lawful authority, violative of the policy on subject and liable to be set aside.

ATTESTED

C. That the impugned order was passed at the instance of respondent No.3 in revengeful manner because he was annoyed on challenging and suspension of his appointment as Advisor to

Department and others by the spouse of petitioner through Writ Petition No. 3046-P/ 2019 which was later on dismissed on 26-06-2019 against which he filed CPLA No. 2807/2019 in the Hon'ble Supreme Court of Pakistan which is still pending for hearing. Thus the impugned order is the result of revenge from the petitioner and the same is neither passed in exigency of service nor in the public interest or on any complaint from any quarter otherwise she having very clean and excellent service record spreading over more than 29 years at her credit. Copies of Writ petition **Annexed-E**, Interim Order **Annexed-F** and Judgment **Annexed-G**.

- D. That neither petitioner has yet been relieved from the post of Principal nor other incumbent was transferred against that very post and the proposal of further transfer to district Mardan is unjustified, unreasonable and not warranted by law, rules and policy.

It is therefore, humbly prayed that on acceptance of this petition, this Hon'ble Court may be pleased to:-

- (i) **Declare** the impugned Notification of transfer of petitioner dated 10-07-2019 and the subsequent proposal for further transfer of petitioner to district Mardan vide letter dated 08-08-2019, as illegal, without lawful authority, malafide, tainted with political victimization and revenge, violative of the policy on subject and be set aside.

- (ii) **Direct** the respondents to treat the petitioner in accordance with law, rules and policy on subject in fair manner and not to suffer her for the act of other.

- (iii) **Restrain** the respondents from taking any adverse action against

ATTESTED

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

Interim Relief

That the impugned Notification and the subsequent proposal for further transfer of petitioner to district Mardan is illegal, without lawful authority, prompted by political interference and neither petitioner has been relieved from the post of Principal nor other female Principal has yet been posted against that very post thus petitioner has good prima facie case so she requests for suspending the operation of impugned Notification and subsequent letter of proposal of her further transfer to district Mardan till the disposal of present petition.

Through


Petitioner

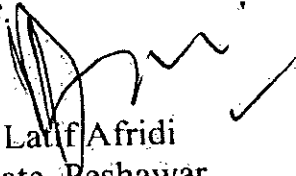
Abdul Latif Afridi
Advocate,
Supreme Court of Pakistan

Dated: 30/08/2019

ATTESTED


CERTIFICATE

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

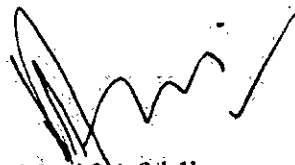

Abdul Latif Afridi
Advocate, Peshawar.

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.


Abdul Latif Afridi
Advocate, Peshawar

ATTESTED

IN THE PESHAWAR HIGH COURT PESHAWAR

WRIT PETITION No. ____/2019

Mst. Taslim Begum,
Principal (BS-20),
Govt. Girls Comprehensive,
Higher Secondary School Peshawar,
Presently under transfer & Placed at the disposal of Directorate of
Elementary & Secondary Education,
Peshawar.....Petitioner.

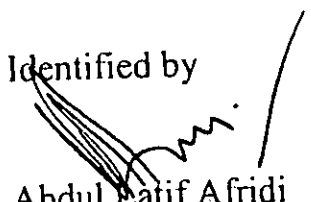
Versus

The Chief Minister,
Province of Khyber Pakhtunkhwa,
Chief Minister's Secretariat,
Peshawar and others.....Respondents

AFFIDAVIT

I, Mst. Taslim Begum, Principal (BS-20), Govt. Girls Comprehensive, Higher Secondary School Peshawar, Presently under transfer & Placed at the disposal of Directorate of Elementary & Secondary Education, Peshawar 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.


Deponent

Identified by

Abdul Latif Afridi
Advocate, Peshawar

ATTESTED 17301-1241387-2

IN THE PESHAWAR HIGH COURT PESHAWAR

WRIT PETITION No. _____/2019

Mst. Taslim Begum,
Principal (BS-20),
Govt. Girls Comprehensive,
Higher Secondary School Peshawar,
Presently under transfer & Placed at the disposal of Directorate of
Elementary & Secondary Education,
Peshawar.....Petitioner.

Versus

The Chief Minister,
Province of Khyber Pakhtunkhwa,
Chief Minister's Secretariat,
Peshawar and others.....Respondents

ADDRESSES OF PARTIES

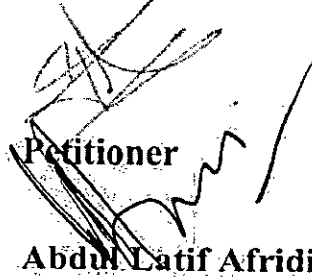
Mst. Taslim Begum,
Principal (BS-20),
Govt. Girls Comprehensive,
Higher Secondary School Peshawar,
Presently under transfer & Placed at the disposal of Directorate of
Elementary & Secondary Education,
Peshawar.....Petitioner.

Versus

1. The Chief Minister,
Province of Khyber Pakhtunkhwa,
Chief Minister's Secretariat, Peshawar **ATTESTED**
2. The Chief Secretary,
Govt. of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.
3. The Advisor to Chief Minister,
Govt. of Khyber Pakhtunkhwa,

- 4. The Secretary,
Govt. of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department,
Civil Secretariat, Peshawar.

- 5. The Director,
Elementary & Secondary Education Department,
Khyber Pakhtunkhwa, Peshawar..... Respondents:

Through

Petitioner
Abdul Latif Afridi
Advocate,
Supreme Court of Pakistan

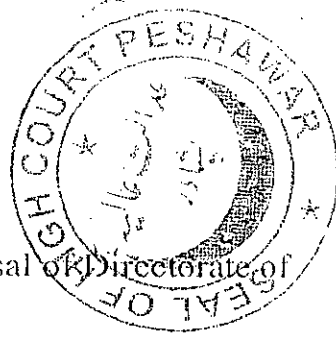
Dated: 30/08/2019


ATTESTED

IN THE PESHAWAR HIGH COURT PESHAWAR

WRIT PETITION No. 4784 P/2019

1. Mst. Taslim Begum,
Principal (BS-20),
Govt. Girls Comprehensive,
Higher Secondary School, Peshawar,
Presently under transfer & Placed at the disposal of Directorate of
Elementary & Secondary Education,
Peshawar.....Petitioner.



Versus

1. The Chief Minister,
Province of Khyber Pakhtunkhwa,
Chief Minister's Secretariat, Peshawar.
2. The Chief Secretary,
Govt. of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.
3. The Advisor to Chief Minister,
Govt. of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department,
Peshawar.
4. The Secretary,
Govt. of Khyber Pakhtunkhwa,
Elementary & Secondary Education Department,
Civil Secretariat, Peshawar.
5. The Director,
Elementary & Secondary Education Department,
Khyber Pakhtunkhwa, Peshawar.....Respondents.

ATTESTED

EXAMINER
Peshawar High Court

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

wp4784 2019 Mst Taslim Begum vs Chief.Minister KP full USB 53 PG

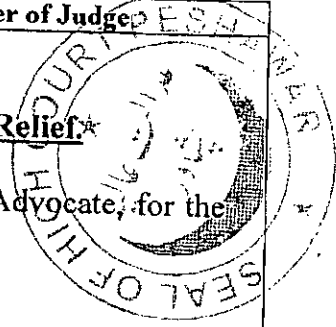
ATTESTED

11-9-19

PESHAWAR HIGH COURT, PESHAWAR.

FORM 'A'
FORM OF ORDER SHEET

Date of order.	Order or other proceedings with the order of Judge
03.09.2019	<p><u>WP NO.4784-P/2019 with Interim Relief*</u></p> <p><u>Present:-</u> Mr. Abdul Latif Afridi, Advocate, for the petitioner.</p> <p>*****</p> <p>Notice be issued to the worthy Advocate General for 19.09.2019. Meanwhile, status quo to be maintained.</p> <p style="text-align: center;">JUDGE JUDGE</p> <p style="text-align: right;">CERTIFIED TO BE TRUE COPY Examiner Peshawar High Court, Peshawar Authorised Under Article 8.7 01 The Qanun-e-Shahadat Order 1984</p> <p>3/5/19 07/9/19 07/9/19 Fahim</p>



M.Swaj PS DB of Hon'ble Mr. Justice Rooh ul Amin Khan and Hon'ble Mr. Justice Mr. Atuned Ali

ATTESTED

IN THE PESHAWAR HIGH COURT PESHAWAR

Misc. Application No. _____/2019

IN

WRIT PETITION No. 4784-P/2019

Mst. Taslim Begum,
Principal (BS-20),
Govt. Girls Comprehensive,
Higher Secondary School Peshawar,
Presently under transfer & Placed at the disposal of Directorate of Elementary &
Secondary Education,
Peshawar.....Petitioner.

Versus

The Chief Minister,
Province of Khyber Pakhtunkhwa,
Chief Minister's Secretariat,
Peshawar and others.....Respondents

APPLICATION FOR WITHDRAWAL THE CAPTIONED WRIT
PETITION IN ORDER TO FILE SERVICE APPEAL IN THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Respectfully Sheweth,

That the above captioned Writ petition is pending in this Hon'ble
Court therein the applicant/petitioner has challenged her impugned
transfer order dated 10-07-2019. Since the statutory period of 90 days
has been elapsed from the date of her Departmental Appeal and now
the alternate remedy became available therefore she requests to this
Hon'ble High Court for withdrawal the above titled petition enabling
her to file Service Appeal in the Khyber Pakhtunkhwa Service
Tribunal Peshawar.

It is humbly prayed that on acceptance of this application, this
Hon'ble High Court may kindly be issued order of withdrawal of the
petition.

ATTESTED
Through

Dated: 05/11/2019

Applicant/petitioner

Abdul Latif Afridi
Advocate,
Supreme Court of Pakistan

IN THE PESHAWAR HIGH COURT PESHAWAR

Misc. Application No. _____/2019

IN

WRIT PETITION No. 4784-P/2019

Mst. Taslim Begum,
Principal (BS-20),
Govt. Girls Comprehensive,
Higher Secondary School Peshawar,
Presently under transfer & Placed at the disposal of Directorate of Elementary &
Secondary Education,
Peshawar.....Petitioner.

Versus

The Chief Minister,
Province of Khyber Pakhtunkhwa,
Chief Minister's Secretariat,
Peshawar and others.....Respondents

AFFIDAVIT

I, Mst. Taslim Begum, Principal (BS-20), Govt. Girls Comprehensive
Higher Secondary School Peshawar, 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.

CNIC 17301-12413872

[Signature]
Deponent

Identified by

[Signature]

0333-93579416

Abdul Latif Afridi
Advocate, Peshawar

[Signature]

No. 13614 Certified that the above was verified on solemnly affirmation to the effect that day of Nov 19 Mst. Taslim Begum Principal who was present is present Date 05/11/19 Peshawar High Court	<i>[Signature]</i> Abdul Latif Afridi
---	--

Madam Verified

PESHAWAR HIGH COURT, PESHAWAR.
FORM "A"
FORM OF ORDER SHEET.

Annexure H
P.32



Serial No of order or proceeding	Date of Order or Proceeding	Order or other proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3
	06.11.2019.	<p><u>W.P.No.4784-P/2019.</u></p> <p><u>Present:-</u> Mr.Sajeed Khan Afridi, Advocate for the petitioner.</p> <p>====</p> <p><u>LAL JAN KHATTAK, J:-</u> States that under the instructions of his client he would withdraw this petition so that the petitioner could approach the proper forum for the redressal of her grievance.</p> <p>In view of the above, this petition is dismissed leaving the petitioner at liberty to avail the remedy available to her under the law. ✓</p> <p style="text-align: right;"><i>L. Jan</i> JUDGE</p> <p style="text-align: right;">XXXX JUDGE</p> <p style="text-align: center;">CERTIFIED TO BE TRUE COPY</p> <p style="text-align: center;"><small>Examiner Peshawar High Court, Peshawar Authorised Under Article 87 of The Qanun-e-shahadat Order 1988</small></p> <p style="text-align: center;">07 NOV 2019</p>

No. 12667
 Date of Presentation of Application 07/11/19
 No of Pages 7
 Copying fees 20
 Total 20
 Date of Preparation of Copy 07/11/19
 Date of Delivery of copy 07/11/19
 Received By [Signature]

(A/IKHAN Court Secretary)

HON'BLE MR.JUSTICE LAL JAN KHATTAK &
HON'BLE MR.JUSTICE AHMED ALI

IN THE PESHAWAR HIGH COURT PESHAWAR

WRIT PETITION No. 30467/2019

Mr. Khush Dil Khan Advocate,
Member of Provincial Assembly,
PK-70, Peshawar-V,
Provincial Assembly,
Khyber Pakhtunkhwa, Peshawar.....Petitioner.

Versus

1. The Governor of Khyber Pakhtunkhwa,
Through its Principal Secretary,
Governor Secretariat,
Governor House, Peshawar.
2. The Chief Minister,
Province of Khyber Pakhtunkhwa,
Through its Principal Secretary,
Chief Minister's Secretariat, Peshawar.
3. The Chief Secretary,
Govt. of Khyber Pakhtunkhwa,
Civil Secretariat, Peshawar.
4. The Secretary,
Govt. of Khyber Pakhtunkhwa,
Administration Department,
Civil Secretariat, Peshawar.
5. Mr. Zia Ullah Khan Bangash,
MPA / Adviser to Chief Minister,
Elementary and Secondary Education Department,
Khyber Pakhtunkhwa.
6. Mr. Hamayatullah Khan,
Adviser to Chief Minister,
Energy & Power Department,
Khyber Pakhtunkhwa.

ATTESTED

- 7. Mr. Abdul Karim Khan,
MPA / Special Assistant to Chief Minister,
Industries and Commerce Department,
Khyber Pakhtunkhwa.
- 8. Mr. Kamran Bangash,
MPA / Special Assistant to Chief Minister,
Science & Technology & Information Technology Department,
Khyber Pakhtunkhwa.
- 9. Mr. Ajmal Wazir,
Adviser to Chief Minister for Supervision & Coordination
of Merged District Affairs / Spokesman,
Khyber Pakhtunkhwa.....Respondents.

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

Respectfully Sheweth,

The brief facts giving rise to the present petition are as under:-

- 1. That petitioner is a public representative, elected from his respective provincial constituency PK-70 Peshawar-V in the **General Elections held on 25th July, 2018** on the party ticket of **Awami National Party of Pakistan** who is on opposition benches in the House.
- 2. That recently respondent No.3 (Chief Secretary) has issued two different Notifications, the first Notification was issued on 13-09-2018 thereby;

ATTESTED

Respondents No.5 was appointed as Adviser to the Chief Minister and was conferred with the portfolio of Elementary & Secondary Education,

Respondent No. 6 was appointed as advisers to Chief Minister with the portfolio of Energy & Power,

Respondents No.7 appointed as Special Assistant to Chief Minister for Industries & Commerce,

Respondent No.8 was appointed as Special Assistant to Chief Minister for Science & Technology and Information Technology Khyber Pakhtunkhwa. The contents of the Notification dated 13-09-2018 (Annexure-A) is reproduced as under;

**GOVERNMENT OF
KHYBER PAKHTUNKHWA
ADMINISTRATION DEPARTMENT**

DATED PESHAWAR, THE 13TH SEPTEMBER, 2018

NOTIFICATION

NO.SOC(E&AD)4-1/2018. In exercise of the powers conferred by Section 3(1) of the Khyber Pakhtunkhwa Advisers and Special Assistants to the Chief Minister (Appointment) Act, 1989, the Governor Khyber Pakhtunkhwa, on the advice of the Chief Minister Khyber Pakhtunkhwa, is pleased to appoint the following members of the Provincial Assembly and Mr. Hamayatullah Khan, as Advisers and Special Assistants to the Chief Minister, Khyber Pakhtunkhwa with immediate effect:

ATTESTED

S.No	Name	Designation	Department
1.	Mr. Zia Ullah Khan Bangash, MPA	Adviser to CM.	Elementary & Secondary Education.
2.	Mr. Hamayatullah Khan	Adviser to CM.	Energy & Power.
3.	Mr. Abdul Karim Khan, MPA	Special Assistant to CM.	Industries & Commerce.
4.	Mr. Kamran Khan Bangash, MPA	Special Assistant to CM.	Science & Technology and Information Technology.

Sd/-
Chief Secretary
Khyber Pakhtunkhwa

ENDST. No. & DATE EVEN.

Copy forwarded to the: -

1. Mr. Zia Ullah Khan Bangash, Adviser to Chief Minister, Khyber Pakhtunkhwa.
2. Mr. Hamayatullah Khan, Adviser to chief Minister, Khyber Pakhtunkhwa.
3. Mr. Abdul Karim Khan, Special Assistant to Chief Minister, Khyber Pakhtunkhwa.
4. Mr. Kamran Khan Bangash, Special Assistant to Chief Minister, Khyber Pakhtunkhwa.

Sd/-
(QASIM JAN)
SECTION OFFICER (CABINET)

3. That on the 22nd January, 2019, similar Notification was issued by the respondent No.3 thereby respondent No.9 (Ajmal Wazir) was appointed as Adviser to Chief Minister for Supervision and Coordination of Merged Districts Affairs / Spokesman of Khyber Pakhtunkhwa.

The contents of the Notification dated 22nd January, 2019 (Annexure-B) is reproduced as under;

ATTESTED

FILED TODAY

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ADMINISTRATIVE DEPARTMENT

Dated Peshawar The 22th January, 2019

NOTIFICATION

No.SOC (E&AD)4-5/2019 In exercise of the powers conferred by section 3(1) of the Khyber Pakhtunkhwa Advisers and Special Assistants to Chief Minister (Appointment) Act 1989, the Governor Khyber Pakhtunkhwa on the advice of the Chief Minister Khyber Pakhtunkhwa is pleased to appoint Mr. Ajmal Wazir as Adviser to Chief Minister.

Consequent upon his appointment, Mr. Ajmal Wazir is assigned the task of "supervision and coordination of Merged Districts Affairs" in addition to spokesperson of the Provincial Government with immediate effect.

Sd/-
CHIEF SECRETARY
KHYBER PAKHTUNKHWA

ENDST NO. & DATE EVEN

Copy forwarded to Mr. Ajmal Wazir, Advisor to Chief Minister for supervision & coordination of Merged Districts Affairs/ Spokesman Khyber Pakhtunkhwa.

Sd/-
(Taj Muhammad)
SECTION OFFICER (CABINET)

ATTESTED



4. That the appointments of above referred private respondents have been made under Section 3 of the Khyber Pakhtunkhwa Advisers and Special Assistants to the Chief Minister (Appointment) Ordinance, 1989 which is reproduced as under for the convenience of this Hon'ble Court.

3. Advisers / Special Assistants to the chief Minister:—

- (1) To assist the Chief Minister in the performance of his functions, the Governor may, on the advice of the Chief Minister, appoint as many persons as he considers necessary to be Advisers and Special Assistants to the Chief Minister.
- (2) An Adviser or Special Assistant to the Chief Minister shall hold office during the pleasure of the Chief Minister and shall be entitled to such remunerations and privileges as the Chief Minister may determine.
- (3) An Adviser or Special Assistant to the Chief Minister shall perform such functions as may be assigned to him by the Chief Minister from time to time.

Extracts of the relevant Section of the Ordinance, 1989 is attached as Annexure-C.

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7

5. That the provisions of Advisers and Special Assistants were also reflected under Rule 33A of the Khyber Pakhtunkhwa Rules of Business, 1985 which is reproduced as under;

33A. ADVISORS AND SPECIAL ASSISTANTS:-

- (1) There shall be Advisers and Special Assistant to the Chief Minister for the performance of such duties and functions, as may be specified from time to time.
- (2) An Advisor or Special Assistant shall hold office during the pleasure of the Chief Minister on such terms and conditions, as may be determined by the Chief Minister.

The extracts of relevant Rule is attached as Annexure-D.

6. That the vires of the provisions of above referred Section 3 of the Ordinance, 1989 and the Rule 33A of the Rule of Business, 1985 are in conflict with the provisions of the Constitution, 1973 and also in derogation of the Fundamental Rights laid down in the Chapter-I of Part-II of the Constitution, 1973, on the touchstone of Articles 8, 17, 129, 130 (11), 137, 141 and 142 of the Constitution, 1973. The provisions of each these Articles are hereby reproduced as under for immediate reference;

ATTESTED





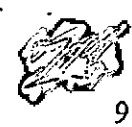
Article-8: Law inconsistent with or in derogation of Fundamental Rights to be void:-

- (1) Any law, or any custom or usage having the force of law, in so far as it is inconsistent with the rights conferred by the Chapter, shall, to the extent of such inconsistency, be void.
- (2) The State shall not make any law which takes away or abridges the rights so conferred and any law made in contravention of this clause shall, to the extent of such contravention, be void.
- (3) _____
- (4) _____
- (5) _____

Article-17: Freedom of association:-

[17. (1) Every citizen shall have the right to form association or unions, subject to any reasonable restrictions imposed by law in the interest of sovereignty or integrity of Pakistan, public order or morality.

ATTESTED



- (2) Every citizen, not being in the service of Pakistan, shall have the right to form or be a member of a political party, subject to any reasonable restrictions imposed by law in the interest of the sovereignty or integrity of Pakistan and such law shall provide that where the Federal Government declares that any political party has been formed or is operating in a manner prejudicial to the sovereignty or integrity of Pakistan, the Federal Government shall, within fifteen days of such declaration, refer the matter to the Supreme Court whose decision on such reference shall be final
- (3) Every political party shall account for the source of its funds in accordance with law]

Article-129: The Provincial Government:-

[129. (1) Subject to the Constitution, the executive authority of the Province shall be exercised in the name of the Governor by the Provincial Government, consisting of the Chief Minister and Provincial



 10

Ministers, which shall act through the Chief Minister.

(2) In the performance of his functions under the Constitution, the Chief Minister may act either directly or through the Provincial Ministers.]

Article-130: The Cabinet:-

- (1) _____
- (2) _____
- (3) _____
- (4) _____
- (5) _____
- (6) _____
- (7) _____
- (8) _____
- (9) _____
- (10) _____
- (11) **The Chief Minister shall not appoint more than five Advisers.**

Article-137: Extent of executive authority of Province:-

Subject to the Constitution, the executive authority of the Province shall extend to the matters with respect to which the

ATTESTE

Provincial Assembly has power to make laws.

Provided that, in any matter with respect to which both

²[Majlis-e-Shoora (Parliament)] and the Provincial Assembly of a Province have power to make laws, the executive authority of the Province shall be subject to, and limited by, the executive authority expressly conferred by the Constitution or by law made by

²[Majlis-e-Shoora (Parliament)] upon the Federal Government or authorities thereof.

Article-141: Extent of Federal and Provincial laws:-

Subject to the Constitution, ¹[Majlis-e-Shoora (Parliament)] may make laws (including laws having extra-territorial operation) for the whole or any part of Pakistan, and a Provincial Assembly may make laws for the Province or any part thereof.

ATTESTED

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Article-142: Subject-matter of Federal and Provincial laws:-

Subject to the Constitution--

(a) ¹[Majlis-e-Shoora (Parliament)] shall have exclusive power to make laws with respect to any matter in the Federal Legislative List;

²[(b) Majlis-e-Shoora (Parliament) and a Provincial Assembly shall have power to make laws with respect to criminal law, criminal procedure and evidence;]

³[(c) Subject to paragraph (b), a Provincial Assembly shall, and Majlis-e-Shoora (Parliament) shall not, have power to make laws with respect to any matter not enumerated in the Federal legislative List;]

⁴[(d) Majlis-e-Shoora (Parliament) shall have exclusive power to make laws with respect to all matters pertaining to such areas in the Federation as are not included in any Province].

7. That in case of Federal Government, the provisions of appointment of Advisers was already existed in Article 93 of

ATTESTE

FILED TODAY



the Constitution, 1973, which is reproduced as under for immediate reference;

Article-93: Advisers:-

- (1) The President may, on the advice of the Prime Minister, appoint not more than five Advisers, on such terms and conditions as he may determine.
- (2) The provisions of Article 57 shall also apply to an Adviser.

Article-57: Right to speak in ³[Majlis-e-Shoora (Parliament)]:-

The Prime Minister, a Federal Minister, a Minister of State and the Attorney General shall have the right to speak and otherwise take part in the proceedings of either House, or a joint sitting or any committee thereof, of which he may be named a member, but shall not by virtue of this Article be entitled to vote.

8. That in view of above scenario, the provisions of Section 3 of the Ordinance, 1989 and the Rules 33A of the Khyber Pakhtunkhwa Rules of Business, 1985 are directly conflict with the scheme of Democratic Government as enshrine in the Constitution and the appointments of respondent No. 5 to 9 made by respondent No.1 on the advice of respondent No.2 are

ATTESTE



incompetent, illegal and the subsequent delegation of power and authority to Advisers and Special Assistants are also ultra vires the Constitution.

Hence the petitioner being aggrieved and finding no adequate and efficacious remedy is constrained to file this petition on the following amongst other grounds:

- A. That Ordinance, 1989 and the Rule 33A of the Khyber Pakhtunkhwa Rules of Business, 1985 are inconsistent not only with the provisions of Clause 11 of Article 130 of the Constitution but also in derogation of the Fundamental Rights as laid down in the Constitution, therefore both the law and rules are void ab initio, of no legal effect and ultra vires of the Constitution and liable to be struck off.
- B. That Article 141 of the Constitution, 1973 has empowered the Provincial Assembly to make laws for the Province but subject to Constitution. Therefore, the Ordinance, 1989 and the Rule 33A of Khyber Pakhtunkhwa Rules of Business, 1985 are directly conflict with the provisions of Clause 11 of Article 130 of the Constitution, 1973 under which only five Advisers would be appointed by the respondent No.2. Therefore, respondent No.1 has unlawfully acted on the advice of respondent No.2 and made the appointments of respondents No. 5 to 9 which are illegal, without lawful authority, incompetent, of no legal effect and liable to be set aside.
- C. That respondents No. 6 and 9 are unelected persons while respondent No.5 is elected member of the Provincial Assembly

ATTESTED

of the Ruling Party. They were appointed as Advisers by the Governor (Respondent No.1) on the advice of Chief Minister (Respondent No.2) exercising such power under Section 3 of the Ordinance, 1989 while Clause 11 of Article 130, mandated the Chief Minister only to appoint advisers but not more than five, thus the appointments of respondents No. 5, 6 to 9 are illegal, without lawful authority, void ab initio and unconstitutional.

Further respondents No. 5, 6 and 9 were delegated executive authority and power which they could not exercise under Article 129 of the Constitution, which is only vested in the Chief Minister and Provincial Ministers. Thus they are exercising the authority in violation of the provisions of the Constitution which is not warranted. However as per meaning and scope of the word "Adviser" they can only give guidance and recommendations for futuristic actions and nothing else.

D. That respondents No. 7 & 8 are elected members of the Provincial Assembly of the Ruling Party and were appointed as Special Assistants to Chief Minister by the respondent No.1 on the advice of respondent No.2 in view of Section 3 of the Ordinance, 1989 in violation of the Constitution as such provisions not provided therein.

Further more executive authority delegated to them are also contrary to Article 129 of the Constitution, according to which such authority and powers are only exercised by the Chief Minister and Provincial Ministers and not else. Not only their appointments as Special Assistants are illegal and unconstitutional but the authority is being exercised

ATTESTED

by them is also illegal, without lawful authority.

- E. That in the recent reported judgment of the Hon'ble Sindh High Court PLD 2017 Sindh 214 therein such provisions of law and rules have been declared unconstitutional and of no legal effect. **Copy of the Judgment is attached as Annex-E.**
- F. That no criteria or qualification for the appointment of Adviser have been mentioned in the relevant Clause of Article 130 nor laid down in the challenged law and rules. Thus in such circumstances where the law did not provide any criteria or qualification for appointment to a position and left such appointment on the absolute discretion of an authority then there existed a taxing responsibility to justify the said appointment on the touchstone of the prudence, good governance, fair play and such freedom could not be misused to accommodate people of one's choice which has not done in this case.

It is therefore, humbly prayed that on acceptance of this petition, this Hon'ble Court may be pleased to:-

- (i) **Strike down** the Khyber Pakhtunkhwa Advisers and Special Assistants to the Chief Minister (Appointment) Ordinance, 1989 and Rule 33A of the Rules of Business, 1985 being inconsistent with the provisions of the Constitution, 1973.
- (ii) **Declare** the appointments of respondents No. 5 to 9 made under the provisions of the above Ordinance, 1989 be declared

ATTESTED



as illegal, without lawful authority, of no legal effect, ultra vires the Constitution and liable to be set aside.

- (iii) **Restrain** Respondents No.5 to 9 from holding the public offices and prevent them from drawing the privileges and financial benefits attached with their respective positions.
- (iv) **Direct** Respondents No.3 & 4 to stop the salaries of Respondents No.5 to 9 and make the recoveries of all emoluments as paid to them on account of their illegal appointments.
- (v) Any other relief deemed appropriate in the circumstances of the case but not specifically prayed for, may also be allowed.

Interim Relief

Since the impugned appointments orders of Respondents No.5 to 9 are unlawful and unconstitutional, therefore, these may graciously be suspended till the decision of the main writ petition.

Petitioner

Khush Dil Khan
Advocate,
Supreme Court of Pakistan

Dated: 18/05/2019

ATTESTED

FILED TODAY

CERTIFICATE

Certified that previously an identical case Writ Petition No. 3028-P/2013 was filed but the same was dismissed vide order dated 12-04-2013 being not pressed.



Khush Dil Khan
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.


Khush Dil Khan
Advocate, Peshawar

ATTESTED

IN THE PESHAWAR HIGH COURT PESHAWAR

WRIT PETITION No. 30467/2019

Mr. Khush Dil Khan Advocate,
Member of Provincial Assembly,
PK-70, Peshawar-V,
Provincial Assembly,
Khyber Pakhtunkhwa, Peshawar and others.....Petitioner.

Versus

The Governor of Khyber Pakhtunkhwa,
Through its Principal Secretary,
Governor Secretariat,
Governor House, Peshawar and others.....Respondents

AFFIDAVIT

I, Mr. Khush Dil Khan Advocate, Member of Provincial
Assembly, PK-70, Peshawar-V, Khyber Pakhtunkhwa,
Peshawar, 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.

03008887691

CNIC: 17301-13248993

Identified by

[Signature]
Deponent

Khush Dil Khan
Advocate, Peshawar

No:.....	<u>28436</u>
Certified that the above was verified on solemnly	
affirmation before me in office, this <u>22nd</u>	
day of <u>May</u>	<u>2019</u>
at <u>Peshawar</u>	<u>Khush Dil Khan</u>
who was identified by <u>Deponent</u>	<u>Deponent</u>
Who is personally known to me:	
<u>[Signature]</u>	
Oath Commission Peshawar High Court, Peshawar.	

ATTESTED
[Signature]

Annexure = J

P-52

IN THE PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET

[Handwritten signature]

[Handwritten signature]

Date of order or proceedings.	Order or other proceedings with signature (s) of Judge(s)
(1)	(2)
13.06.2019	<p><u>W.P.No. 3046-P/2019</u></p> <p><u>Present:</u> Petitioner in person.</p> <p style="text-align: center;">***</p> <p>The petitioner has challenged vircs of Khyber Pakhtunkhwa Advisers and Special Assistants to the Chief Minister (Appointment) Ordinance, 1989 as well as appointment of respondents. Comments of respondents be called for, so as to reach this court positively within seven days:</p> <p><u>Interim Relief</u></p> <p>Notice for 26.6.2019. In the meanwhile, the impugned appointments orders of respondents No.5 to 9 are suspended till the date fixed.</p> <p style="text-align: right;"><i>[Signature]</i> JUDGE</p> <p style="text-align: right;"><i>[Signature]</i> JUDGE</p> <p style="text-align: center;">ATTESTED</p>

Annexure = K

P-53

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Judgment Sheet

**IN THE PESHAWAR HIGH COURT,
PESHAWAR**
(Judicial Department)

WP No. 3046-P/2019

Khushdil Khan Advocate

Vs

Government of Khyber Pakhtunkhwa, etc

JUDGMENT

Date of hearing. 26.6.2019
Petitioner(s) by: M/s Abdul Latif Afridi &
Khushdil Khan Advocates.
Respondent by: M/s Abdul Latif Yousafzai
Advocate General KPK,
Waqar Ahmad Khan AAG
and Muhammad Yousaf
Orakzai Advocate.

IKRAMULLAH KHAN, J:-Through the instant petition under Article 199 of the Constitution of Islamic Republic of Pakistan 1973, petitioner who is standing member of Provincial Assembly of Khyber Pakhtunkhwa and senior Advocate of Peshawar High Court, Peshawar has challenged the appointment of respondents No.5 to 9 as Advisors and Special Assistants to worthy Chief Minister Khyber Pakhtunkhwa as well as vires of Khyber

ATTESTED



Pakhtunkhwa Advisers and Special Assistants to the Chief Minister (Appointment) Act, 1989 (KP Advisers Act 1989) and Rule 33-A of the Khyber Pakhtunkhwa Government Rules of Business 1985 (Rules of Business) being inconsistent with the Article 130(ii) of the Constitution of Islamic Republic of Pakistan, 1973.

2. Petitioner being a senior advocate and Mr. Abdul Latif Afridi, learned counsel for petitioner contended that the provisions contained in Section 3 of the KP Advisers Act 1989 is not only inconsistent with the provisions of Article 130(II) of the Constitution of Islamic Republic of Pakistan, 1973 but also redundant and the appointment of respondents No.5 to 10 in term of Section 3 of the KP Advisers Act 1989 be struck down and the appointment of respondents be declared void ab initio unconstitutional without lawful authority and of no legal effect, ultra vires the Constitution of 1973.

3. On the other hand, learned Advocate General Khyber Pakhtunkhwa, Additional Advocate General Khyber Pakhtunkhwa and Mr. Muhammad Yousaf Orakzai Advocate, on behalf of respondents No.5 to 10 argued that petitioner has no locus standi, to file the instant writ

ATTESTED



petition being not an aggrieved person, while remained more or less for five years as Deputy Speaker of Khyber Pakhtunkhwa and he himself being Deputy Speaker has acted upon the act and rules under consideration and has never raised any objection over the same; that the provisions of section 3 of the KP Advisers Act 1989 and rule 33-A of Khyber Pakhtunkhwa Government Rules of Business 1985 is not inconsistent with the provisions of constitution 1973; that it is the prerogative of the Chief Minister to recommend the name of any suitable person to the Worthy Governor in view of Rules of Business 1985 for appointment as Adviser or Special Assistant, however, such adviser shall not be more than five while there is no any Constitutional bar or restriction over number of appointment of Special Assistant and requests that this writ petition is not maintainable being filed with considerable delay.

4. We have heard learned counsel for the parties in light of constitution, law and their respective submissions.

5. It would be expedient to reproduce the relevant provision of Khyber Pakhtunkhwa Advisers and

ATTESTED



Special Assistants to the Chief Minister (Appointment) Act, 1989 and the Khyber Pakhtunkhwa Government Rules of Business 1985, which directly governs the matter in issue. The preamble of the Khyber Pakhtunkhwa Advisers and Special Assistants to the Chief Minister (Appointment) Act, 1989 reads as:-

"Whereas it is expedient to provide for appointment of Advisers and Special Assistants to the Chief Minister in the public interest:-

- 1.....
- 2.....

3. Advisers/Special Assistants to the Chief Minister.---(1) To assist the Chief Minister in the performance of his functions, the Governor may, on the advice of the Chief Minister, appoint as many persons as he considers necessary to be Advisers and Special Assistants to the Chief Minister.

While Rules 33-A of Khyber Pakhtunkhwa Government Rules of Business 1985 read as under:-

33-A. ADVISORS AND SPECIAL ASSISTANTS:-

(1) There shall be Advisers and Special Assistants to the Chief Minister for the performance of such duties and functions, as may be specified from time to time.

(2) An Advisor or Special Assistant shall hold office...

ATTESTED

pleasure of the Chief Minister on such terms and conditions, as may be determined by the Chief Minister.

The above rule 33-A is not inconsistent with Article 130 (11) of the Constitution of Islamic Republic of Pakistan, 1973 (Constitution) as Article 130 (11) of the Constitution 1973 also confers powers on the Chief Minister of a province to appoint Adviser, however, the same shall not be more than 5, at a time, which reads as:-

130 (11). The Chief Minister shall not appoint more than five Advisers.

6. It is admitted fact that although the constitution 1973 confers powers upon the Chief Minister of a Province to appoint Advisers however, no procedure is provided thereunder for such appointment in the mode and manner as provided for appointment of Federal Adviser in terms of Article 93 of the Constitution which reads:-

93. Advisers.— (1) The President may, on the advice of the Prime Minister, appoint not more than five Advisers, on such terms and conditions as he may determine.

(2) The provisions of Article 57 shall also apply to an Adviser.

ATTESTED

UB

7. In order to formulate and streamline the business of Provincial Government, Article 139 of the Constitution has invested the Provincial Government to make rules of business which reads as:-

139. Conduct of business of Provincial Government.

(3) The Provincial Government shall also make rules for the allocation and transaction of its business.

8. In view of Article 139 of the Constitution, the Governor of Khyber Pakhtunkhwa has made Khyber Pakhtunkhwa Government Rules of Business 1985 whereas Rule-36 reads as:-

36. REFERENCE TO THE CHIEF MINISTER.-

(1) Without prejudice to other provisions of these rules:-

(a) All cases mentioned in Schedule-V shall be submitted to the Chief Minister for advising the Governor to pass appropriate orders thereon; and

(b) All cases mentioned in Schedule-VI shall be submitted to the Chief Minister for his approval before passing of orders.

(2) A case submitted to the Chief Minister for his order shall include a self contained summary stating the relevant facts and the points for decision. The summary shall include the specific recommendations of the Minister in-charge

ATTESTED



accompanied by a draft communication appropriate. wherever

9. No doubt, in view of Article 130 (11) of the Constitution, the power of appointment of Advisers are conferred upon the Chief Minister only but in view of Rule 36 of the Khyber Pakhtunkhwa Government Rules of Business 1985, the Chief Minister shall place, all cases mentioned in Schedule-V before the Governor of the Province, advising the Governor to pass appropriate orders thereon, while item No.21 of the Schedule V of the Rules of Business 1985 read as:-

*"List of case to be submitted to the Governor through the Chief Minister:-
1 to 20.....not applicable.*

21. Administration of Advisers and Special Assistant to the Chief Ministers.

10. So keeping in view the above mentioned provisions of Rules of business, the approval of the Governor in order to appoint advisers by the Chief Minister of the Province could not be termed as unconstitutional or without lawful authority. The summary moved to the Chief Minister and through Chief

ATTESTED

Minister to the Governor of Khyber Pakhtunkhwa reproduced herein under which reads as:-

SUMMARY FOR CHIEF MINISTER.

Subject: Appointment of Advisor/Special Assistants to Chief Minister, Khyber Pakhtunkhwa.

A communication has been received from Chief Minister's Secretariat regarding appointment of the following Members of Provincial Assembly and Ex-Bureaucrat as Advisors and Special Assistants to the Chief Minister, Khyber Pakhtunkhwa for the Departments noted against their names.

S.No.	Name	Designation	Department
1.	Mr. Ziaullah Khan Bangash MPA.	Advisor to CM	Elementary & Secondary Education.
2.	Mr. Hamayatullah Khan, Ex-Bureaucrat	Advisor to CM	Energy & Power
3.	Mr. Abdul Karim Khan MPA	Special Assistant to CM	Industries & Commerce
4.	Mr. Kamran Khan Bangash MPA	Special Assistant to CM	Science & Technology and Information technology.

2. The Advisors and Special Assistants to the Chief Minister (Appointment) Act 1989, gives the process of appointment of Advisors and Special Assistants under Section 3 of the Act as reproduced below:-

"3(1) To assist the Chief Minister in the performance of his functions, the Governor may, on the advice of Chief Minister, appoint as many persons as he considers necessary to be Advisors and Special Assistants to the Chief Minister.

(2) An Advisor or Special Assistant to the Chief Minister shall hold office during the pleasure of Chief Minister and shall be entitled to such remunerations and privileges as the Chief Minister may determine.

(3) An Advisor or Special Assistant to the Chief Minister shall perform such functions as may be assigned to him by the Chief Minister from time to time."

3. The Chief Minister is requested to advise the Governor, Khyber Pakhtunkhwa to appoint the Members of Provincial Assembly/Ex-Bureaucrat contained in Para 2 above as Advisors and Special Assistants to the Chief Minister.

11. Insofar as appointment of Special Assistant to Chief Minister is concerned, it is purely regulated by Khyber Pakhtunkhwa Advisors

ATTESTED



the Chief Minister (Appointment) Act, 1989 and there is no embargo upon the governor by any provisions of the constitution to appoint any person as Special Assistant to the Chief Minister. While Section 3 of the Act *ibid* deals with both appointment of Advisers and Special Assistants.

12. It is worth to be noted that Article 130 including clause 11 of the Constitution, is made part of the Constitution through 18th amendment Act 2010 while prior to the said provisions appointment of advisers to Chief Minister was governed by Khyber Pakhtunkhwa Advisers and Special Assistants to the Chief Minister (Appointment) Act, 1989 and the same is not repealed by virtue of Article 130(11) of the Constitution, however, restriction is placed on appointment of Advisers, which shall not be more than 5, while Section 3 of the Act *ibid* does not specify the particular numbers of the Advisers in view of Article 130(11) of the Constitution therefore, the provisions of Section 3 of the Khyber Pakhtunkhwa Advisers and Special Assistants to the Chief Minister (Appointment) Act, 1989 to the extent of words: *"as many persons as he considers necessary to be advisers and Special Assistants to the Chief Minister"* is

ATTESTED

become redundant in the terms that the Chief Minister could not appoint more than five advisers. Therefore, it would be expedient and in the public interest that the Khyber Pakhtunkhwa Advisers and Special Assistants to the Chief Minister (Appointment) Act, 1989, may be appropriately amended to bring its provisions in consonance with Article 130(11) of the Constitution 1973.

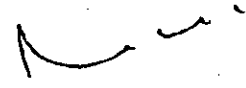
13. It is settled principle of law that the law shall be saved rather than to be destroyed and the Court must lie in favour of upholding the Constitutionality of legislation, keeping in view that the zeal of Constitutional interpretation is that there is a presumption in favour of the Constitutionality of the legislative enactments unless prima facie it is violative of Constitutional provisions, no malafide could be attributed to the legislator. The petitioner has remained a Deputy Speaker of Khyber Pakhtunkhwa Assembly for a term of five years but he never brought any such matter under consideration before the legislature through presentation of any bill for amendment of Section 3 of the Khyber Pakhtunkhwa Advisers and Special Assistants to the Chief Minister



ATTESTED



(Appointment) Act, 1989 while now standing member of the assembly may move a private bill for the purpose, so the objection of learned Advocate General, that the instant petition is hit by doctrine of laches, could not be over ruled. Therefore, this petition is dismissed with the above mentioned observations.

Announced:
26.6.2019.


JUDGE


JUDGE


ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Annexure = L
R64

Dated Peshawar the October 25, 2019

NOTIFICATION

NO.SO(S/F)E&SED/4-16/2019/Posting/Transfer/General:- In continuation of this Department Notification of even number dated 24.10.2019, the Competent Authority is pleased to hold in abeyance the posting/transfer Notification, upto the extent of Mst. Tehmina Aslam Principal (BS-19), under transfer as Principal (BS-20) GGCHSS Peshawar in OPS, appearing at serial No.2, till further orders, as the status quo already been granted by the Hon'ble Peshawar High Court, Peshawar in its judgment dated 03.09.2019 in W.P No.4784-P/2019.

2. No TA/DA is allowed.

Endst: of even No. & Date

SECRETARY

Copy forwarded to the:

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

AK. Kiran
25/10/19

(AKASHA KIRAN)
SECTION OFFICER (SCHOOLS FEMALE)

ATTESTE
[Signature]

WAKALAT NAMA

IN THE COURT OF 18th/19th February 2018 Service Tribunal, Peshawar

Mrs. Taslim Begum
Principal (A-2) Income Tax ^{Pakistan} Appellant(s)/Petitioner(s)

VERSUS

The Chief Minister & others
Respondent(s)

I/We Mrs. Taslim Begum do hereby appoint Mr. Khush Dil Khan, Advocate Supreme Court of Pakistan 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 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, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of proceedings.

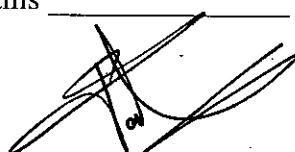
AND hereby agree:-

- a. That the Advocate(s) 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 Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this _____

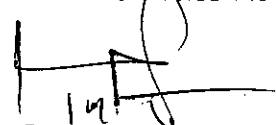
Attested & Accepted by


Khush Dil Khan,
Advocate,
Supreme Court of Pakistan
9-B, Haroon Mansion
Off: Tel: 091-2213445



Signature of Executants

17301-1241387-2


Rizwanullah,
Advocate

AS ^{per}
Ashraf Ali Khan

ELEMENTARY & SECONDARY EDUCATION DEPARTMENT,
GOVERNMENT OF KHYBER PAKHTUNKHWA


F

Subject: TRANSFER

Since, Elementary & Secondary Education Department has imposed ban upon all kind of posting/ transfers in Khyber Pakhtunkhwa vide notification dated 14/02/2019; however, as per directions and consequent upon relaxation of ban by the Competent Authority; the services of Mst. Tasleem Begum, Principal (BS-20) GGCHSS Peshawar are proposed to be placed at the disposal of Directorate of E&SE.

File is submitted as desired, please.

Deputy Secretary (Admin:) E&SED


Section Officer (S/F) 10/7/07

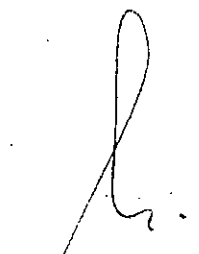
AS(E)

Spr.


10/07

SO(S/F)

As proposed.


17/07

DS - (A)
SO(S/F)

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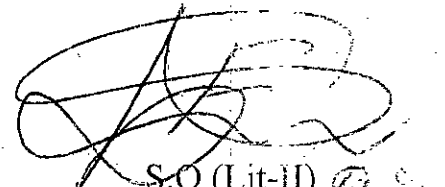
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT,
GOVERNMENT OF KHYBER PAKHTUNKHWA

Subject:- APPEAL NO. 1505/ 2019 TITLED MST. TASLIM BEUGM VS
EDUCATION DEPARTMENT.

A Notice has been received from Additional Advocate General, Khyber Pakhtunkhwa Service Tribunal, Peshawar, wherein it has been stated that the above mentioned appeal was fixed for arguments before the Honourable Service Tribunal Peshawar dated 03-03-2020. The court directed the Deputy District Attorney to provide summary regarding transfer of the appellant approved by Competent Authority. Appeal is adjourned to 30-03-2020 for arguments.

In view of the above, the file may be routed to Section Officer (School/Female) to provide a copy of summary approved by Competent Authority regarding transfer of Mr. Taslim Begum, Principal GGCHSS Peshawar before the Honourable Service Tribunal on the date fixed i.e. 30-03-2020, please.

DS(Legal)


S.O (Lit-II) 09/02/20

For immediate action please.

S O (S/F)

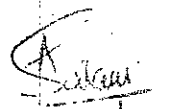
10-3-2020

Reference para above

It is submitted that the said Principal was transferred as per directions of then Additional Secretary, (Estab) and notesheet to this effect may be perused at F/A. No such summary is available in this section.

Resubmitted please.

DS(Admin) The record available with Section as in para-7/n may be provided to litigation wing.


10/3/2020
S.O (F)

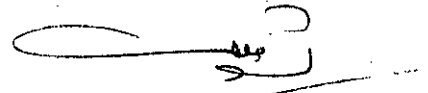
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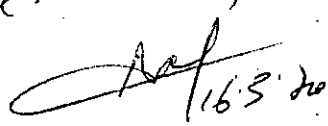
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16.3.20.

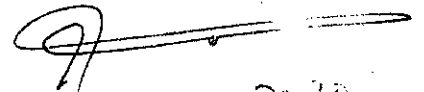
A/E.

process/provide pl.


16.3.20

DSL

please provide the records by today.


16-3-2020

~~SO (S/P)~~

The copy of

notesheet handed over to S.C

(-11)

day. Return the file too.

16/3/2020

~~DSL~~

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

S.A.# 1505/2019.

Mst. Taslim Begum PrincipalAppellant.
VERSUS

Secretary E&SE, Govt: of Khyber Pakhtunkhwa & others.....Respondents.

PARAWISE COMMENTS ON BEHALF OF THE RESPONDENTS

Respectfully Sheweth,

The Respondents submit as under:-

Preliminary Objections

1. The appellant has got no cause of action/locus standi.
2. The instant appeal is badly time barred.
3. The appellant has concealed the material facts from this Hon'able Tribunal, hence is liable to be dismissed on this score.
4. The appellant has not come to this Hon'able Tribunal with clean hands.
5. The appellant has filed the instant appeal with malafide intention just to pressurize the Respondent for gaining illegal service benefits.
6. The present appeal is liable to be dismissed for mis-joinder & non joinder of necessary parties.
7. The instant appeal is against the prevailing law & rules.
8. The appellant is estopped by her own conduct to file the instant appeal.
9. The instant appeal is not maintainable in its present form and also in the present circumstances of the issue.
10. That the order dated 10-07-2019 is legally competent and is liable to be maintained in favour of the Respondent.
11. That the appellant has been treated as per law, rules and discretionary powers conferred upon respondent No.2, under Section-10 of Civil Servant Act 1973.

FACTS.

1. Para-1 of service appeal relates to the record. However the order dated 10-07-2019 is legally competent.
2. Para-2 of the Service Appeal relates to record.
3. Para-3 is correct to the extent that the appellant has been transferred from the post of Principal, GGCHSS Peshawar vide Notification No.SO(S/F)E&SE/4-16/2019/Mst. Taslim Begum dated 10-07-2019 is liable to be maintained.
4. That Para-4. pertains to judicial record, however the departmental appeal annexed with Service Appeal filed by the appellant for cancellation of her transfer order dated 10-07-2019 having no diary No. of the CM office, under the provision of Section-10 of Civil Servant act, 1973 wherein


Competent Authority has been authorized/mandated to transfer and post a civil servant wherever her services are required by the Authority concerned against the above mentioned post of being a Provincial Cadre Post. Hence the plea of the appellant regarding the cancellation of her transfer Notification dated 10-07-2019 is itself illegality on the part of the appellant in terms of the above referred Section of Law.

5. Incorrect & not admitted. The appellant is liable to serve anywhere in the province as already mentioned in Section-10 of the Khyber Pakhtunkhwa Civil Servant Act, 1973, hence present appeal is liable to be dismissed inter-alia on the following grounds.

Grounds

- A. Incorrect and denied, taking the shelter under the umbrella of being senior most and an old aged civil servant at such a belated stage is mainly based on malafied intentions just to stick to the post of Principal at Peshawar without any legal justification.
- B. Incorrect and denied. The Notification dated 10-07-2019 is legally competent duly issued by the Competent Authority under the relevant provisions of Law by keeping in view the facts and circumstances of the case and terms of being a management.
- C. Incorrect and denied. The post of Principal is Provincial Teaching Cadre post and it is the prerogative of the Government to transfer a civil servant to a place where his/her services are mostly required and no civil servant is permitted to work at his/her choice of station.
- D. Incorrect, as what so ever has been done was in accordance with the Law & Rules, the appellant, has no solid ground for thrashing out for the Department order.
- E. Incorrect, that the Appellant misguide this Hon'able Tribunal that she completed her normal tenure of transfer.
- F. That the retention of Appellant against at her own post means, that the appellant taking shelter under the umbrella of Honourable Court Stay Order, but the same Writ Petition has already been dismissed and illegally hold the said post.

In view of the above made submissions, it is, therefore, most humbly prayed that this Honourable Tribunal may very graciously be pleased to dismiss the appeal in hand with cost in favour of the Respondent.


Secretary
Elementary & Secondary Education Department,
Khyber Pakhtunkhwa, Peshawar