

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

**SERVICE APPEAL NO. 1384/2020**

Date of Institution ... 17.02.2020

Date of Decision ... 21.12.2020

Sadar Nawaz S/o Itbar Khan, PSHT, GPS Shams-Ud-Din Hangu,  
R/o Mohallah Nawaz Shinwari, P/o Zargari Tehsil Tall District  
Hangu.

... (Appellant)

**VERSUS**

District Education Officer (Male) Hangu and five other  
respondents.

... (Respondents)

MR. MUHAMMAD ILYAS ORAKZAI,  
Advocate

--- For appellant.

MR. MUHAMMAD JAN,  
Deputy District Attorney,

--- For official respondents.

MR. KANWAR KAMAL KHAN,  
Advocate

--- For private respondent No.5

MUHAMMAD JAMAL KHAN  
ATIQU-UR-REHMAN WAZIR

---

MEMBER (Judicial)

---

MEMBER (Executive)

**JUDGMENT:**

**MUHAMMAD JAMAL KHAN, MEMBER:-** The present

appeal has been directed against the impugned notification dated  
06.12.2019 by virtue of which appellant has been transferred and  
posted from GPS Shinwari Naryab to GPS Shams-ud-Din, Hangu,  
outside his Union Council in contravention of the Khyber

Pakhtunkhwa Appointment, Deputation, Posting and Transfer of Teachers Regulatory Act, 2011.

2. According to the averments, appellant is serving in the Education Department as SPST (Male) in BPS-14 at Government Primary School Shinwari Naryab, District Hangu, and being promoted from SPST (Male) BPS-14 to PSHT (BPS-15) in consequence of which he has been transferred to GPS Shams-ud-Din Hangu which is contrary to the law on the subject. He filed departmental appeal/representation before the District Education Officer (Male) Hangu, but with no response, necessitating the institution of present appeal.

3. Respondents were summoned, in compliance thereof they attended the Services Tribunal through their representative besides being represented by Mr. Muhammad Jan, learned Deputy District Attorney, contesting the appeal by submitting reply/comments wherein they have assailed it on a number of legal and factual objections, inter-alia, petitioner has no locus standi, approaching this Tribunal not with clean hands and petitioner cannot be allowed to the place of his own choice.

4. We have heard arguments of the learned counsel representing appellant and also the learned Deputy District Attorney and were able to go through the record on file with their assistance.

5. According to the learned counsel appellant has been posted and transferred outside the territorial limits of his Union Council despite the fact that there are four vacant posts at the Union Council. Appellant is still a PTC Teacher and according to Section 3 (3) of the Act a PTC Teacher has to be transferred to fill in the vacant position while referring to para-3 of comments furnished by respondents, he submitted that for a PTC Teacher no grade has been determined.

6. The learned counsel for private respondent No. 5 while making reference to the impugned notification dated 06.12.2019 submitted that appellant has been promoted from SPST (BPS-14) to PSHT (BPS-15) thus his transfer was legally justified. That no civil servant can remain posted at a station indefinitely which is illegal.

7. On the contrary, the learned Deputy District Attorney submitted that when a Primary School Teacher is promoted as Head Teacher he can be posted anywhere in the territorial limits of district. While referring to the impugned order, he submitted that it was issued solely in the public interest, the promotion order has been actualized. He referred to Sub-section 3 of Section 3 of the Khyber Pakhtunkhwa Appointment, Deputation, Posting and Transfer of Teachers Regulatory Act, 2011. He submitted that appellant had executed an agreement with the respondents that

on promotion he can be posted anywhere in the territorial limits of district.

8. It is admitted on record that the appellant acted as Senior Primary School Teacher (Male) in BPS (14) at Government Primary School Shinwari Naryab, District Hangu, by virtue of notification dated 06.12.2019, he has been promoted from Senior Primary School Teacher (BPS-14) to Primary School Head Teacher (BPS-15) and posted to GPS Shams-ud-Din Hangu falling outside the territorial limits of the Union Council where appellant was posted. It has been categorically provided by sub-section (3) of section 3 of the Khyber Pakhtunkhwa Appointment, Deputation, Posting and Transfer of Teachers Regulatory Act, 2011, the primary school teacher shall be transferred to other school within the Union Council on completion of tenure as may be prescribed which is subject to policy of rationalization for maintaining certain students teachers ratio. There is nothing on record to show any thing in black and white with respect to rationalization at the very school or any other school falling within the territorial limits of the Union Council where appellant is rendering his duties. Appellant is still a Primary School Teacher and his cadre as such has not changed obviously he is still rendering duties as a Primary School Teacher, therefore, under the law in vogue he should have been posted to any school falling within the respective Union Council especially when there were vacant posts available in that Union Council, therefore, the impugned order dated 06.12.2019 is not

sustainable to the extent of appellant and is liable to be rescinded to that extent. As regard the concurrence and execution of agreement on the part of appellant, in this regard an agreement made in contravention of the Government Policy or the law is void and no sanctity can be attached to it to be sacrosanct as a civil servant cannot be precluded to approach the Service Tribunal when his respective rights are infringed.

9. For what has been discussed in the foregoing paras, we accept the instant appeal by setting aside the impugned order dated 06.12.2019 to the extent of appellant, simultaneously directing respondents to make an order for the posting/transfer of appellant within the territorial limits of his respective Union Council of course subject to the policy of rationalization. Parties are left to bear their own costs. File be consigned to the record room.

**ANNOUNCED**  
**21.12.2020**



**(ATIQ-UR-REHMAN WAZIR)**  
**Member (Executive)**



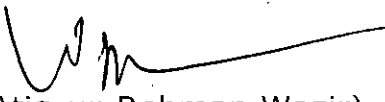
**(MUHAMMAD JAMAL KHAN)**  
**Member (Judicial)**

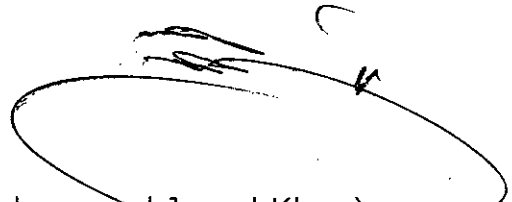
S.No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	21.12.2020	<p><u>Present.</u></p> <p>Mr. Muhammad Ilyas Orakzai, Advocate ... For appellant.</p> <p>Mr. Muhammad Jan, Deputy District Attorney ... For official respondents.</p> <p>Mr. Kanwar Kamal Khan, Advocate ... For private respondent No. 5.</p> <p>Vide our detailed judgment of today, we accept the instant appeal by setting aside the impugned order dated 06.12.2019 to the extent of appellant, simultaneously directing respondents to make an order for the posting/transfer of appellant within the territorial limits of his respective Union Council of course subject to the policy of rationalization. Parties are left to bear their own costs. File be consigned to the record room.</p> <p><u>ANNOUNCED</u> 21.12.2020</p> <p>(Muhammad Jamal Khan) Member (Judicial)</p> <p>(Atiq-ur-Rehman Wazir) Member (Executive)</p>

01.10.2020

Appellant himself alongwith Mr. Muhammad Ilyas Orakzai, Advocate are present. Mr. Muhammad Jan, Deputy District Attorney alongwith representative of the department Mr. Muhammad Nawaz, ADEO for official respondents No. 1 to 4, private respondent No. 5 alongwith Mr. Kanwar Khan, Advocate, and private respondent No. 6 in person are present.

Arguments heard. Learned Deputy District Attorney made reference to the recruitment rules of the Education Department however, he has not produced the rules in support of his pleas thereof. For its production, time was sought. Time granted. File to come up for remaining arguments and further proceedings on 26.10.2020 before D.B.

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

  
(Muhammad Jamal Khan)  
Member (Judicial)

26.10.2020

Proper D.B is on Tour, therefore, the case is adjourned for the same on 21.12.2020 before D.B.

  
Reader

04.09.2020

Learned counsel for the appellant is present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Muhammad Nawaz, ADEO on behalf of official respondents No. 1 to 4, private respondent 6 in person are also present. Private respondent No. 5 in person alongwith Mr. Kanwar Khan, Advocate, is also present and furnished Vakalatnama.

Comments on behalf of official respondents No. 1 to 4 have already been submitted while written reply/comments on behalf of private respondents No. 5 & 6 have not been submitted so far despite last chance given in previous order sheet dated 10.08.2020. Private respondents No. 5 & 6 once again requested for further time for filing of written reply/comments. File to come up for written reply/comments on behalf of private respondents No. 5 & 6 on 22.09.2020 by way of another last chance.



(Muhammad Jamal Khan)  
Member (Judicial)

22.09.2020

Counsel for the appellant, Addl. AG for respondents No. 1 to 4, counsel for private respondent No. 5 and private respondent No. 6 in person present.

Private respondents have provided their respective replies, which are made part of the record. The matter is assigned to D.B for arguments on 01.10.2020. The appellant may furnish rejoinder to the replies/comments of the respondents, within one month, if so desires.



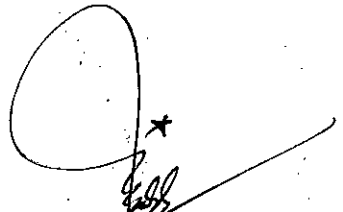
Chairman



02.07.2020

Junior to counsel for the appellant and Addl: AG for respondents present. Written reply not submitted. Requested for adjournment.

Adjourned to 22.07.2020 before S.B.

  
MEMBER

22.07.2020

Junior counsel for appellant is present. Neither written reply/comments on behalf of respondents submitted nor anyone on their behalf is present, therefore, notices be issued to them for submission of written reply/comments. File to come up for written reply/comments on 10.08.2020 before S.B.

  
(MUHAMMAD JAMAL KHAN)  
MEMBER

10.08.2020

Counsel for the appellant and Addl. AG alongwith Muhammad Nawaz ADEO for respondents No. 1 to 4 and respondent No. 6 in person present. Nemo for respondent No. 5.

Representative of respondents No. 1 to 4 has furnished parawise comments on behalf of the said respondents. Respondent No. 6 seeks further time. Fresh notice be issued to respondent No. 5. To come up for written reply/comments of respondents No. 5 & 6 on 04.09.2020 by way of last chance.

Chairman 

18.06.2020

Counsel for the appellant present. Preliminary arguments heard and case file perused. The appellant was serving as SPST (Male) BPS-14 at GPS Shinwari Naryab, District Hangu. That the appellant alongwith others colleagues were promoted to the post of PSHT (BPS-15) vide notification dated 06.12.2019. That on promotion the appellant was transferred from GPS Shinwari Naryab, District Hangu to GPS Shams Ud Din, Hangu vide impugned notification dated 06.12.2019 against which he filed departmental appeal which was not responded within the stipulated period of ninety days, hence the instant service appeal. It was further argued and contended that under Section 3(3) of the Khyber Pakhtunkhwa (Appointment, Deputation, Posting and Transfer of Teachers, Lecturers, Instructors and Doctors) Regulatory Act, 2011 PST/PSHT are posted within the Union Council whereas despite available posts in radian of his Union Council, he has been ignored and teachers <sup>appearing at</sup> serial No.4 and 5 of the impugned notification adjusted/posted in his Union Council. Learned counsel for the appellant contended that the appellant has not been treated according to law and rules.

Points urged need consideration. Service appeal is admitted subject to all legal objections. Appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 02.07.2020 before S.B.

Appellant Deposited  
Security & Process Fee

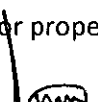

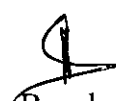
(MAIN MUHAMMAD)  
MEMBER

Form- A

FORM OF ORDER SHEET

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

Case No.- 1384 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	09/03/2020	<p>The appeal of Mr. Sadar Nawaz resubmitted today by Mr. Muhammad Ilyas Orakzai Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p> REGISTRAR 09/3/2020</p>
2-	13/03/20	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>27/03/2020</u>.</p> <p> MEMBER</p>
25.03.2020		<p>Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 18.06.2020 before S.B.</p> <p> Reader</p>

This is an appeal filed by Mr. Sadar Nawaz today on 17/02/2020 against the order dated 06.12.2019 against which he preferred/made departmental appeal/ representation on 09.12.2019 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, which is premature as laid down in an authority reported as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant/Counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action.

No. 430 /ST,


Dt. 17-02 /2020.

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Muhammad Ilyas Orakzai Adv. Pesh.

Respected Sir,

The instant appeal earlier return due to premature one, now the period of 90 days after departmental appeal is lapsed and resubmitted today on 09.03.2020.

  
9.3.2020  
Muhammad Ilyas Orakzai  
Advocate High Court Pesh.



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

Khyber Pakhtunkhwa  
Service Tribunal

Service Appeal No:- 1384 -P/2020

Registry No. 1131

Date 17-02-2020

Sadar Nawaz S/o Itbar Khan, PSHT, GPS Shams Ud Din Hangu,  
R/o Mohallah Nawaz Shinwari, P/o Zargari Tehsil Tall District  
Hangu

..... Appellant

**Versus**

- ✓1. District Education Officer (Male) Hangu
- ✓2. Sub Divisional Education Officer (Male), Primary Hangu
- ✓3. Director Education Elementary & Secondary Education Department  
Khyber Pakhtunkhwa, Peshawar.
- ✓4. Secretary to Government of Khyber Pakhtunkhwa, Elementary &  
Secondary Education Department, KPK, Peshawar
- 5. Speen Khan S/o Jafar Khan, PSHT, GPS Soor Chapper District  
Hangu
- 6. Muhammad Altaf S/o Haji Janat Gul, PSHT, GPS No 2 Chapri  
Naryab Tehsil Thall District Hangu.

Filed to-day

*[Signature]*  
Registrar

17/2/2020

..... Respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA  
SERVICES TRIBUNAL ACT, 1947 R/W KHYBER  
PAKHTUNKHWA E&D RULES, 2011 AGAINST THE IMPUGNED  
NOTIFICATION DATED 06/12/2019 WHEREBY THE  
APPELLANT HAS BEEN TRANSFERRED AND POSTED FROM

Re-submitted to - day

*[Signature]*  
Registrar  
9/3/2020

GPS SHINWARI NARYAB TO GPS SHAMS UD DIN HANGU  
(OUTSIDE HIS UNION COUNCIL) AGAINST THE KHYBER  
PAKHTUNKHWA (APPOINTMENT, DEPUTATION, POSTING AND  
TRANSFER OF TEACHERS REGULARITY ACT, 2011).

***Prayer in Appeal:***

On acceptance of this appeal the impugned notification dated 06/12/2019 to the extent of posting and transfer of the appellant may kindly be modified and the appellant may kindly be transferred from GPS Shams Ud Din Union Council Darband Hangu and posted at his Union Council Naryab-II in GPS Soor Chapper Hangu according to the Regularity Act, 2011.

***Respectfully Sheweth:-***

1. *That the appellant has been serving in the department as SPST (Male) BPS-14 and posted at Govt: Primary School Shinwari Naryab District Hangu.*
2. *That the appellant being senior alongwith other has been promoted from SPST (Male) BPs-14 to PSHT BPS-15 vide notification dated 06/12/2019. (Copy of notification is attached as annexure "A").*
3. *That by the said promotion, the appellant has been transferred to GPS Shams Ud Din Hangu from GPS Shinwari Naryab Hangu, which is against the KP*

(Appointment, Posting & Transfer of Teacher Regularity Act, 2011).

4. That appellant feeling aggrieved from the said transfer and posting order filed his representation before respondent No 1 on 09/12/2019, but still has no response. (Copy of representation is attached as annexure "B").
5. That the appellant feeling further aggrieved from the posting and transfer order through notification dated 06/12/2019 is filing the instant appeal inter alia on the following grounds:-

**Grounds:-**

- A. That the impugned notification to the extent of posting and transfer of the appellant is illegal, unlawful and against the KPK (Appointment, Deputation, Posting and Transfer of Teachers Regularity Act, 2011) hence liable to be modified. (Copy of Regularity Act, 2011 is attached as annexure "C")
- B. That according to the Section 3 sub Section 3 of the KPK (Appointment, Deputation, Posting and Transfer of Teachers Regularity Act, 2011) the Primary School Teachers shall be transferred to other schools within the union council.
- C. That the appellant is at Serial No 3 of the seniority among other teachers, moreover, in the Union Council of appellant



i.e. Naryab-II, 4 stations of PSHT BPS-15 was vacant during the said posting and transfer order and according to above rules the appellant being senior most in his Union Council based school was deserved to be appointed in nearest station i.e. GPS Soor Chaper Hangu, but the respondent No 1 without following the relevant rules and merit policy made posting and transfers of the teachers and the appellant was transferred and posted at GPS Shams Ud Din Hangu which falls under the Union Council Darband Hangu.

D. That the appellant is HCV + patient since long as well as his left leg has been broken having steel rod inside it, which was occurred in the year, 2017 as a result of road accident due to which the appellant cannot walk for long distance i.e. 3/4 KM as no routine transport is available there on this score too the appellant is entitled to be posted and transferred in the nearest station i.e. GPS Soor Chaper in Union Council Naryab-II District to which the appellant belongs. (Copy of medical certificate is attached as annexure "D").

E. That above posting and transfer of teachers by respondent No 1 have been made on nepotism and favoritism just to adjust the blue eyed on their favorite stations and ignored the merit policy/KPK Regularity Act, 2011.

5

F. That the appellant has treated unequally against the law and has been deprived of equal protection of law.

G. That any other grounds will be raised at the time of arguments with kind permission of this Honourable Tribunal.

It is, therefore, humbly prayed that on acceptance of this Service Appeal, the impugned Notification dated 06/12/2019 to the extent of posting and transfer of the appellant may kindly be modified and the appellant may kindly be transferred from GPS Shams Ud Din Union Council Darband Hangu and posted at his Union Council Naryab-II in GPS Soor Chapper Hangu according to the Regularity Act, 2011.

Any other remedy which deems fit by this Honourable Tribunal may also be granted in favour of appellant.

Dated:- 17/02/2020

Through:-

&

S. Nawaz  
Appellant

Muhammad Ilyas Orakzai  
Advocate High Court  
Peshawar.

Muhammad Shabir Khalil  
Advocate High Court  
Peshawar.

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

Service Appeal No:- \_\_\_\_\_ -P/2020

Sadar Nawaz

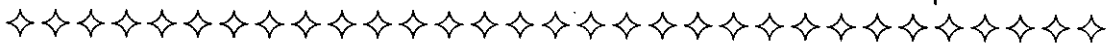
**Versus**

District Education Officer

(M) Hangu & others

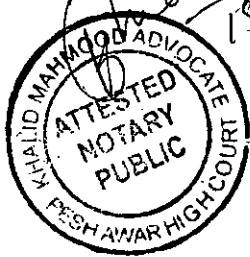
..... Petitioners

..... Respondents



**AFFIDAVIT**

*I, Sadar Nawaz S/o Itbar Khan R/o Shanwari Naryab,  
Mohallah Nawaz Abad, P/o Zargari, Tall District Hangu, (The  
appellant) do hereby solemnly affirm and declare on oath that the  
contents of the accompanying Service Appeal are true and correct  
to the best of my knowledge and belief and nothing has been  
concealed from this Honourable Court.*



DEPONENT

*S. Nawaz*

CNIC No:- 14101-8525234-3

Cell No:- 0300-5651641





OFFICE OF THE DISTRICT EDUCATION OFFICER, (M) HANGU.

NOTIFICATION.

⑧ Annex - A

Consequent upon the recommendation of the Departmental Promotion committee & in pursuance of the Government of Khyber Pakhtunkhwa Elementary & Secondary Education Notification NO.SO(B&A)1-18/E&SE/2012 Dated Peshawar the 11-07-2012 and as amended vide No SO(PE)4-5/SSRC/Meeting/2012/Teaching Cadre/2017 Dated Peshawar the 30-01-2018, the following SPST (M) (BPS-14) are hereby promoted to the PSHT Posts BPS-15 **(16120-1390-56020)** plus usual allowances as admissible under the rules on regular basis, according to the existing policy of the Provincial Government in Teaching Cadre on the terms and condition given below, with immediate effect, and further posted in the schools noted against each.

S.NO	Name of Teachers	Father Name	Name of School	Place of posting as PSHT BPS 15	Remarks
1	Mr. Lais Khan	Fateh Khan	GPS Adam Banda	GPS No, 2 Khattak Banda Hangu	Against Vacant Post
2	Mr. Muhammad Iltaf	Haji Janat Gul	GPS Sangerh Naryab	GPS No, 2 Chapri Naryab Thall Hangu	Against Vacant Post
3 ✓	Mr. Sadar Nawaz	Itbar Khan	GPS Shanawari Naryab	GPS Shamsud Din Hangu	Against Vacant Post
4	Mr. Muhammad Farooq	Ajab Khan	GPS No.2 Zageri	GPS No, 1 Darari Banda Hangu	Against Vacant Post
5	Mr. Muhammad Ashraf	Multan Khan	GPS Azimi Banda	GPS Tamboli Banda Kahi Hangu	Against Vacant Post
6	Mr. Nadeem Khan	Abdul Karim Khan	GPS Maroofi Banda	GPS Manzaki Banda Tora Wari	Against Vacant Post
7	Mr. Speen Khan	Jafar Khan	GPS Shanawari Naryab	GPS Soor Chapper Hangu	Against Vacant Post
8	Mr. Sultan Muhammad	Nek Muhammad	GPS Jan Akbar Koroona	GPS Jan Akbar Koroona Thall Hangu	Against Vacant Post
9	Mr. Abdul Qayyum	Amin Gul	GPS Mirobak Banda	GPS Mamoozai Banda Hangu	Against Vacant Post
10	Mr. Muhammad Kafil	Jan Bahadar	GPS No.2 Speen Khawari	GPS Char Balla Hangu	Against Vacant Post
11	Mr. Muhammad Asghar	Ali Akbar	GPS Khalsari Banda	GPS No, 3 Muhd: Khawaja Hangu	Against Vacant Post
12	Mr. Imdad Ullah	Hayat Bad Shah	GPS Jahangir Abad	GPS Kat Ghar Hangu	Against Vacant Post
13	Mr. Muhammad Aftab	Haji Janat Gul	GPS Naryab	GPS No, 1 Khattak Banda Hangu	Against Vacant Post
14	Mr. Hakim Bad shah	Khial Bad Shah	GPS Daman Banda	GPS No, 2 Darari Banda Hangu	Against Vacant Post
15	Mr. Muhammad Riaz	Umer Khan	GPS No.1 Spin Khawari	GPS No, 3 Chamba Gul Hangu	A.V.Post
16	Mr. Samar Hayat	Muhammad Hayat	GPS No.2 Spin Khawari	GPS No, 2 Chamba Gul Hangu	A.V.P.

APPROVED  
[Signature]

S.NO	Name of Teachers	Father Name	Name of School	Place of posting as PSHT BPS 15	Remarks
17	Mr. Saeed Shah	Nasim Shah	GPS No.4 Hangu	GPS Darband Hangu	Against Vacant Post
18	Mr. Ameer Qadam Khan	Ajab Khan	GPS Kat Ghar	GPS Togh Chapr Hangu	Against Vacant Post
19	Mr. Muhammad Sadique	Muhammad Ibrahim	GPS Wazir Abad	GPS Naway Kalay Hangu	Against Vacant Post
20	Mr. Atiq Ur Rehman	Habib Ur Rehman	GPS Maroofi Banda	GPS No, 1 Ghalo China Hangu	Against Vacant Post
21	Mr. Haji Rehman	Masta Gul	GPS Sarozal Piyala	GPS Lucky Muhd Khawaja Hangu	Against Vacant Post
22	Mr. Muhammad Farid	Sharbat Khan	GPS No.1 Zargerl	GPS No, 1 Zargiri Thall Hangu	Against Vacant Post
23	Mr. Muhammad Raziq	All Akbar	GPS Alwara Milo	GPS Alwara Mella Hangu	Against Vacant Post
24	Mr. Muhammad Jalil	Shah Jehan	GPS Aziz Abad	GPS No, 2 Ghalo China Hangu	Against Vacant Post
25	Mr. Ajar Khan	Bakhat Ali Shah	GPS No.3 Hangu	GPS Khuli Samana Hangu	Against Vacant Post
26	Mr. Jamshid Gul	Bunir Khan	GPS Khazina Banda Hangu	GPS Pira Gul Koroona Hangu	Against Vacant Post
27	Mr. Noor Muhammad Khan	Mir Rehman	GPS No, 2 Warasta Hangu	GPS Chapri Hangu	Against Vacant Post

**Terms & Conditions :**

1. They will be governed by such rules and regulations as may be issued from time to time by the Government.
2. Charge report should be submitted to all concerned.
3. No TA/DA is allowed for joining his duty.
4. Necessary entry should be made in their service books.

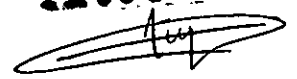
LAL BAZ KHAN )  
DISTRICT EDUCATION OFFICER  
MAEL DISTRICT HANGU

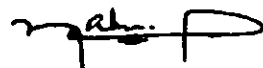
Endst No:-9629-62/F.No PSHT PROMOTION 2019 Dated :-06/12/2019

Copy for information to the:-

1. P.A to Secretary to Govt.of (E&SE)Department Khyber Pakhtunkhwa Peshawar.
2. P.A to Director of Education (E&SE) Khyber Pakhtunkhwa Peshawar
3. District Account Officer District Hangu.
4. Deputy District Education Officer (Male) Hangu.
5. Sub Divisional Education Officer,(M) Primary Hangu
6. Sub Divisional Education Officer,(M) Primary Thall Hangu.
7. Official concerned.

**Attested**



  
DY: DISTRICT EDUCATION OFFICER  
MAEL DISTRICT HANGU

D.No. 2389.  
07.12.19

10

DPS meeting held on 18th of November, 2019.

Subject: ...

Syed Shah - attallah27@gmail.com

To: Aurang Zeb, DEO M Abbottabad, DEO M Bannu, DEO M Battagram, DEO M BUNER and 52 more...

Cc: ahmadmushtaqdeo@gmail.com

From: ...

**Reminder-I**

Dear DEOs

This email is in the reference of last DPS meeting held on 18<sup>th</sup> of November, 2019. Minutes of this DPS meeting has already been shared through email with you all on 28<sup>th</sup> of November, 2019.

The action to be taken by the District Education Officers is hereby mentioned as a reminder-I

You are all requested to share the progress of your action points through email to this office latest by Wednesday 11<sup>th</sup> of December, 2019

SDEO  
Hwy  
DAREO  
IP (Punjab)

ADEO  
IP  
SDEO  
B & A.O

1. Secretary E&SE directed District Education Officers to make sure that PTC members and teachers visit parents to ensure the students attendance in the schools.
2. Secretary E&SE directed District Education Officer (F) Peshawar to submit report on GGPS Bin Ghazi to director E&SE.
3. Secretary E&SE directed District Education Officers to submit the list of schools to director E&SE which cannot be made functional so these schools may be merged immediately.
4. Secretary E&SE directed District Education Officers to ensure monitoring of SDEOs and ASDEOs the construction work under PTCs.
5. Preparation of the list of schools where funds are unutilized.

--Syed Attaullah Shah  
Assistant Director (P&D)

Directorate of (E&SE) Cyber Pakhtunkhwa  
Cell # 03005970569

Attested  


SDEO  
ADEO  
Pay today 7/12/2019

جناب عالی

گورنمنٹ ہیکل عالیہ SPST تقریباً 1987ء میں  
خالق خجک یونین کونسل میں سینئر ترین اور سب سے  
پیر پائوں میں 'Rods' لگے ہوئے ہیں جو زیادہ تر  
میرس ساتھ میری بیٹی جو کلاس K60 میں پڑھتی ہے  
میں بھی ہوائی اسکول جایا کرتی تھیں۔

جناب والا

حائبہ تعزری میں اوپر تمام باتوں اور میرٹ کو نظر انداز کر کے مجھے ہوائی اسکول  
میں تعینات کیا گیا جبکہ مجھے آٹھ کلومیٹر دور شمس الدین باغ میں تعینات  
میں تو میرٹ میں ہی دروغی کو بھی زیور تعلیم کے عہدہ ہوتے کا سبب بنا کر ہوائی اسکول  
میں تعینات کیا گیا ہے اور میرے ASDEO صاحب کو اپنی معزوری اور بچیوں کے  
کے بارے میں کچھ نہ کہہ سکتے ہیں۔ میں نے سوریہ میں تعیناتی کی استدعا کی تھی۔ مگر  
کے بارے میں کچھ نہ کہہ سکتے ہیں۔ تعینات کیا گیا جو ظلم اور نا انصافی ہے۔  
پست میں تعینات کیا گیا۔ میرٹ بچیوں کے تعلیمی سلسلے اور بڑی بیماری کو جواز بنا کر میری تعزری  
میں تعینات کیا گیا ہے۔ شکر گزار رہوں گا۔  
عین نوازش ہوگی۔

دور قیامت - 2012 - 0

جناب عالی  
SPST

0300 5651641

Handwritten notes and signatures at the bottom right corner.



(12) ANN - C

**THE KHYBER PAKHTUNKHWA (APPOINTMENT, DEPUTATION,  
POSTING AND TRANSFER OF TEACHERS, LECTURERS,  
INSTRUCTORS AND DOCTORS) REGULATORY ACT, 2011.**

**(KHYBER PAKHTUNKHWA ACT NO. XII OF 2011)**

**CONTENTS**

**PREAMBLE**

**SECTIONS**

1. Short title, application and commencement.
2. Definitions.
3. Appointment, posting and transfer of primary school teachers.
4. Appointment of doctors, lecturers, instructors, subject specialists and teachers on adhoc basis.
5. Initial posting.
6. Deputation of Doctors.
7. Postgraduate Medical Education
8. Provisions relating to doctors apply to lecturers and instructors.
9. Act to over-ride other laws.
10. Jurisdiction barred.
11. Removal of difficulties.
12. Power to make rules.



13 ✓

**THE KHYBER PAKHTUNKHWA (APPOINTMENT, DEPUTATION,  
POSTING AND TRANSFER OF TEACHERS, LECTURERS,  
INSTRUCTORS AND DOCTORS) REGULATORY ACT, 2011. ✓**

**(KHYBER PAKHTUNKHWA ACT NO. XII OF 2011)**

[first published after having received the assent of the Governor of  
the Khyber Pakhtunkhwa in the Gazette of Khyber Pakhtunkhwa  
(Extraordinary), dated the 12<sup>th</sup> May, 2011].

**AN  
ACT**

*to regulate by law appointments, postings and transfers of teachers serving in  
primary, middle, secondary and higher secondary schools, lecturers in colleges and  
instructors in technical institutions and doctors in health facilities.*

**Preamble.**---WHEREAS it is expedient to regulate by law appointments,  
postings and transfers at local level, of teachers serving in primary, middle,  
secondary and higher secondary schools, lecturers in colleges and instructors in  
technical institutions and doctors in health facilities and to ensure the availability of  
teachers in schools, lecturers in colleges and instructors in technical institutions and  
the doctors in health facilities, and to regulate deputation of doctors abroad, and to  
provide for matters connected therewith or ancillary thereto;

It is hereby enacted as follows:

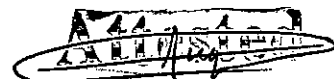
**1. Short title, application and commencement.**---(1) This Act may be called  
the Khyber Pakhtunkhwa (Appointment, Deputation, Posting and Transfer of  
Teachers, Lecturers, Instructors and Doctors) Regulatory Act, 2011.

(2) It shall apply to teachers serving in primary, middle, secondary and  
higher secondary schools, lecturers in colleges as well as commerce colleges and  
instructors serving in technical institutions and doctors serving in the health facilities  
in the Province of the Khyber Pakhtunkhwa.

(3) It shall come into force at once.

**2. Definitions.**---(1) In this Act, unless the context otherwise requires, the  
following expressions shall have the meanings hereby respectively assigned to them  
that is to say,-

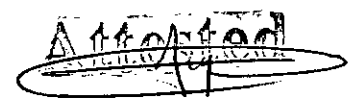
(a) "Commission" means the Khyber Pakhtunkhwa Public  
Service Commission;



- (b) "doctor" means a doctor serving in the health facility;
- (c) "Government" means the Government of the Khyber Pakhtunkhwa;
- (d) "health facilities" mean all health facilities established and managed by the Government to provide medical facilities to general public;
- (e) "lecturer" and "instructor" respectively means a lecturer or an instructor serving in a Technical Institution as the case may be;
- (f) "prescribed" means prescribed by rules made under this Act;
- (g) "rules" mean the rules made under this Act;
- (h) "school" means school in the public sector including primary, middle, secondary school, higher secondary school or an institution of equivalent level imparting education through any system or medium of instruction in the public sector;
- (i) "teacher" means a teacher of primary, middle, secondary or higher secondary school; and
- (j) "technical institution" means and includes a Commerce College or Government College of Management Sciences or Technical Institute or Technical and Vocational Training Center or Skill Development Center in the public sector imparting technical education to students leading to the award of a degree or a diploma or a certificate.

(2) Words and phrases used in this Act, but not defined, shall have the same meanings as respectively assigned to them under the relevant federal law or provincial law or any other statutory order or rules for the time being in force.

**3. Appointment, posting and transfer of primary school teachers.**---(1) The vacancy of primary school teacher shall be filled in from the candidates belonging to the Union Council of their permanent residence mentioned in their Computerized National Identity Card and domicile, on merit and if no eligible candidate in that Union Council is available where the school is situate, such appointment shall be made on merit from amongst eligible candidates belonging to the adjacent Union Councils:



Provided that on availability of a vacancy, a primary school teacher, appointed from adjacent Union Council, as referred to in this sub-section, shall be transferred against a vacant post in a school of the Union Council of his residence within a period of fifteen days.

(2) Upon marriage, the primary school teacher on request may be transferred to the school in the Union Council, where his spouse, ordinarily resides, subject to the availability of vacancy.

(3) The primary school teacher shall be transferred to other school within the Union Council on completion of tenure as may be prescribed subject to the policy of rationalization for maintaining certain student teachers ratio, if any.

(4) Government shall, within a period not exceeding one year of the commencement of this Act, make arrangement for posting of all the primary school teachers appointed prior to coming into force of this Act, to the schools of their respective Union Councils or adjacent Union Councils, as the case may be.

**4. Appointment of doctors, lecturers, instructors, subject specialists and teachers on adhoc basis.**---(1) Government may, through the competent authorities make adhoc appointment on merit against the vacant posts of doctors, lecturers, instructors, subject specialists and teachers, falling within the purview of Commission, in a district concerned from the domicile holders of that district for a period of one year or till the arrival of recommendees of Commission, whichever is earlier after fulfilling the pre-requisites of giving wide publicity in the press. On assumption of charge of post by recommendee of the Commission, the services of such ad hoc appointee shall stand automatically terminated:

Provided that if no suitable and eligible candidate is available in the district concerned for appointment, then the candidates belonging to the neighbouring districts shall be considered for appointment in the order of their merit.

(2) Save as the appointment made under proviso of this section, "ad hoc appointee" shall serve in the district of his domicile.

(3) The post of a doctor, lecturer, instructor, subject specialist or secondary school teacher who proceeds on training or long leave may be treated as vacant post for the purpose of contract or contingent appointment till the return of such employee from training or long leave and assumption of charge of the post:

Provided that the period of such training or long leave shall not be less than one year and no appointment on contract or contingent shall be made on the post which may fall vacant for a period less than one year.

**Attested**

5. **Initial posting.**---(1) The doctors, the teachers and the lecturers and instructors upon their appointment shall be first posted in the periphery of the zone against whose quota they have been recruited, and they shall not be transferred for a period of at least three years.

(2) Upon expiry of the tenure as referred to in sub-section (1), transfer shall be made only upon the availability of substitute.

6. **Deputation of Doctors.**---(1) Government may allow deputation abroad for all categories of doctors only once in their entire service, for a period not exceeding three years.

(2) Deputation to "Foreign Service" within Pakistan shall be permissible only in respect of medical officers for a period not exceeding three years:

Provided that no further extension, on expiry of agreed tenure shall be given to the doctors who are already on deputation abroad or within Pakistan.

7. **Postgraduate Medical Education.**---(1) The Health Department, on the basis of objective need assessment and analysis, shall determine the intake number of Trainee Medical Officers (TMOs) in Postgraduate Medical Institute (PGMI) and Junior Registrars in Tertiary Care Hospitals every year. This stipulated number shall not exceed in any case.

(2) Any doctor selected or permitted for postgraduate medical training shall be treated on leave without pay and may be entitled only for stipend fixed by Government from time to time for such training.

(3) A doctor selected or permitted for postgraduate medical training shall provide surety bond prescribed by Government ensuring that upon completion of his studies for which he was initially selected, shall compulsorily serve for three years in the district of his domicile and in case of non-availability of a post in the district of domicile, he shall serve for three years in the rural area.

(4) For the purpose of sub-section (3), the doctor shall also provide guarantee of two government officers.

(5) In case of violation of sub-section (3), Government shall serve one month notice upon the doctor for resumption of duty, failing which the amount shall be recovered from him or from the guarantor, as the case may be.

8. **Provisions relating to doctors apply to lecturers and instructors.**---The provisions relating to doctors in section 7 of this Act shall *mutatis mutandis* apply to lecturers and instructors.

Attested

9. **Act to over-ride other laws.**---The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force.

10. **Jurisdiction barred.**---Save as provided under the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), the Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986 and the Khyber Pakhtunkhwa Service Tribunal Act, 1974 (Khyber Pakhtunkhwa Act No. I of 1974), no order made or proceedings undertaken under this Act, or the rules made there under or any officer authorized by it shall be called into question in any Court, and no injunction shall be granted by any Court in respect of any decision made, or proceedings taken in pursuance or by any power conferred by or under this Act or the rules.

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

12. **Power to make rules.**---Government may make rules for carrying out the purposes of this Act.

Attested  
A  
/

(18) Anx - 'D'

**Brief Hx**

2 years ago pt. suffered RTA for which (L) Tibial ~~ILN~~ ILN was done. Now came for removal but it has not been done.

**Operative Notes**

~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~

**Investigations:**

Hbs Ag..... -ve. HCV +ve

Radiology.....

MRI /.....

X-Ray .....

Biopsy .....

*AR*

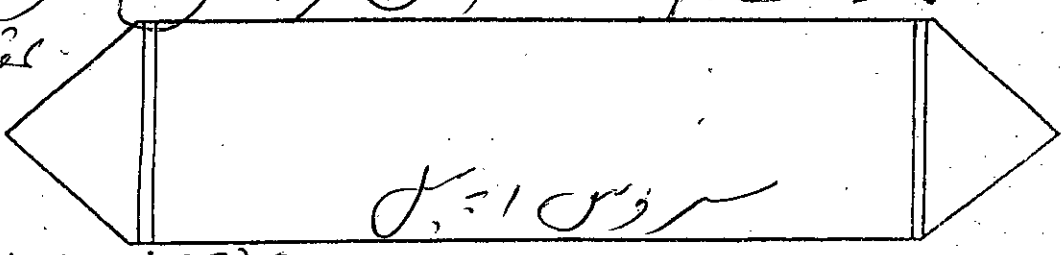
A

NAVAZ





بعدالت جناب سرورس ٹریبونل سپریشن واپس  
مقام ایسٹ ۴



2020 پنجاب ایڈوانس

صدر نواز گل اے سی اے خان بنام ڈسٹرکٹ ایجوکیشن	مدرجہ
PSHT گورنمنٹ پرائمری سکول افسر (میل) ضلع صنگو	مقدمہ
شکایتیں بندہ سنگو	دعوی
و غیر	جرم

### باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دکل کارروائی متعلقہ  
 آن مقام صدر نواز گل اے سی اے خان بنام ڈسٹرکٹ ایجوکیشن کیلئے محمد اسد سے محمد اسد کی طرف سے  
 مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار دگا۔ نیز  
 وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ بر حلف دیئے جواب دہی اور اقبال دعوی اور  
 بسورت ڈگری کرنے اجراء اور صولی چیک و روپیہ ارضی دعوی اور درخواست ہر قسم کی تصدیق  
 زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی  
 نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
 کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار  
 ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بااختیارات حاصل ہوں گے اور اس کا ساختہ  
 پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر چاہانہ التوائے مقدمہ کے سبب سے وہوگا۔  
 کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
 مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ مندر ہے۔

المرقوم 15 ماہ فروری 2020

مقام صدر نواز گل اے سی اے خان کے لئے منظور ہے۔  
 Acceptance  
 [Signature]  
 Shalil

صدر نواز گل اے سی اے خان PSHT گورنمنٹ پرائمری سکول  
 ضلع صنگو  
 سٹیٹ بار کونسل  
 S. Navaz

**IN THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA**

SERVICE APPEAL NO. 1384/2020


Mr. Sadar Nawaz s/o Iqbal Khan PSHT GPS Shams ud Din Hangu

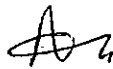
Vs

Govt. of KPK through Secretary E&SED Khyber Pakhtunkhwa and three others.

**INDEX**

S.No	Description of Documents	Annex	Pages
1.	Para-wise comments		1-4
2.	Affidavit		5
3.	The Khyber Pakhtunkhwa Apt: of teachers Regulatory Act, 2011.		6-11
4.	Judicial Stamp Paper		12

  
District Education Officer  
(Male) Hangu.



**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR****SERVICE APPEAL No.1384/2020**

Mr.Sadar Nawaz S/o Itbar khan, PSHT GPS Shams ud din Hangu, R/o  
Mohallah Nawaz Shinwari, P/o Zargari Tehsil Tall District Hangu.

----- Appellant.

Versus

- 1) The District Education Officer Male Hangu.
- 2) Sub Divisional Education Officer (M) Primary Hangu.
- 3) The Director,(E&SE)Khyber Pakhtunkhwa Peshawar.
- 4) The Secretary to Govt:of (E&SE) Department Khyber Pakhtunkhwa  
Peshawar.

Respondent.

**PARA-WISE COMMENTS ON BAHALF OF RESPONDENTS  
NO.1,2 ,3 & 4 ARE GIVEN AS UNDER.****Preliminary Objections.****Respectfully Sheweth**

- 1) That the present appellant has no cause of action.
- 2) That the instant appeals is bad for mis-joinder and non joinder of parties.
- 3) That the instant appeal is not maintainable in its present form .
- 4) That the appellant has not come to the court with clean hands .
- 5) That the appellant has concealed some important material/facts from the  
honourable tribunal .

6) The appellant has been stopped by his own conduct to file the appeal.

7) That this Honorable tribunal has no jurisdiction to entertain the appeal.

**PRAYERS /FACTS.**

1. Para 1 is correct.

2. Para 2 is partially correct.

3. Para 3 is incorrect. The appellant has been adjusted and posted at GPS Shams ud din against vacant post of BPS-15. These promotions are not made on U/C basis. Only appointment as a primary school teacher in BPS-12 are made on U/C basis as per (Appointment , Posting & Transfer of Teacher regularity act 2011 in S.No 03) Copy attached.

4. Para 04 is partially correct. But the respondent department has made the promotion of the appellant according to the rules, policy in vogue. The act of the respondent is not against ((Appointment , Posting & Transfer of Teacher regularity act 2011)

5. Para No.5 is incorrect. The act of the respondent is lawful, correct and according to the policy and not against the (APT Regularity Act 2011).

**GROUND.**

A. Para A is incorrect, the act of the respondent is lawful as per policy of promotion. All are equal in the eyes of law.

B. Para No. B is false, according to the section 3. Sub: section 3 states that the primary school teacher BPS-12 to other school within U/Council. But the instant case is not related to PST (BPS-12). The same is the promotion from SPST(B-14) to PSHT(B-15) which can be made any where in the District as per policy as already stated in Para No.3.

C. Para C is incorrect, all the SPST(B-14) have been extended equal facility as per policy. All are equal in the eyes of law. No discrimination has been made by the respondent department. As detail stated in Para B. The instant case not related to appointment in BPS-12 but is of promotion from SPST BPS-14 to PSHT BPS-15. The case clearly false in promotion/Posting not in appointment /Transfer.

D. Incorrect. The appellant has been treated as per law and policy.

E. Para D is incorrect. No nepotism/favoritism has been made. Further added all the SPSTs seeking promotion to the PSHT Posts have submitted as judicial stamp paper that in result of this Promotion, the appellant will not approach to the Honorable Service Tribunal. (Copy Attached).

F. Incorrect. The appellant has been treated as per law.

G. That other related grounds/ materials will be placed before this honorable Tribunal at the time of hearing.

Prayer                      Keeping in view the above given comments, the appeal may kindly be dismissed with cost.

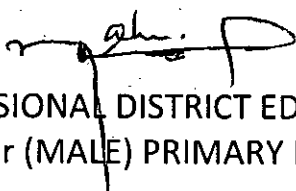
DATED

RESPONDENTS

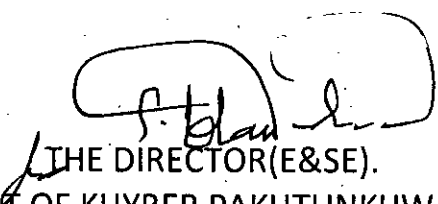
1)

  
THE DISTRICT EDUCATION OFFICER (MALE)  
DISTRICT HANGU

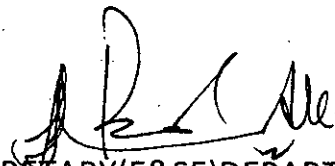
2)

  
SUB DIVISIONAL DISTRICT EDUCATION  
Officer (MALE) PRIMARY HANGU

3)

  
THE DIRECTOR (E&SE).  
GOVERNMENT OF KHYBER PAKHTUNKHWA  
PESHAWAR.

4)

  
SECRETARY (E&SE) DEPARTMENT  
GOVERNMENT OF KHYBER PAKHTUNKHWA.  
PESHAWAR.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL PESHAWAR****SERVICE APPEAL No.1384/2020**

Mr. Sadar Nawaz ..... Appellant

Versus

The Director ,(E&amp;SE) KPK Peshawar &amp; others..... Respondents

**AFFIDAVIT**

I, Muhammad Nawaz , ADEO (M) E&SE Hangu, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Parawise comments** are true and correct to the best of my knowledge and belief and nothing has been concealed on this Hon'ble Court.



DEPONENT

CNIC NO:14101-6348419-7

CELL # 03329615220



(2)

**THE KHYBER PAKHTUNKHWA (APPOINTMENT, DEPUTATION,  
POSTING AND TRANSFER OF TEACHERS, LECTURERS,  
INSTRUCTORS AND DOCTORS) REGULATORY ACT, 2011.**

**(KHYBER PAKHTUNKHWA ACT NO. XII OF 2011)**

**CONTENTS**

**PREAMBLE**

**SECTIONS**

1. Short title, application and commencement.
2. Definitions.
3. Appointment, posting and transfer of primary school teachers.
4. Appointment of doctors, lecturers, instructors, subject specialists and teachers on adhoc basis.
5. Initial posting.
6. Deputation of Doctors.
7. Postgraduate Medical Education
8. Provisions relating to doctors apply to lecturers and instructors.
9. Act to over-ride other laws.
10. Jurisdiction barred.
11. Removal of difficulties.
12. Power to make rules.

(7)

**THE KHYBER PAKHTUNKHWA (APPOINTMENT, DEPUTATION,  
POSTING AND TRANSFER OF TEACHERS, LECTURERS,  
INSTRUCTORS AND DOCTORS) REGULATORY ACT, 2011.**

**(KHYBER PAKHTUNKHWA ACT NO. XII OF 2011)**

[first published after having received the assent of the Governor of  
the Khyber Pakhtunkhwa in the Gazette of Khyber Pakhtunkhwa  
(Extraordinary), dated the 12<sup>th</sup> May, 2011].

AN  
ACT

*to regulate by law appointments, postings and transfers of teachers serving in  
primary, middle, secondary and higher secondary schools, lecturers in colleges and  
instructors in technical institutions and doctors in health facilities.*

**Preamble.**---WHEREAS it is expedient to regulate by law appointments, postings and transfers at local level, of teachers serving in primary, middle, secondary and higher secondary schools, lecturers in colleges and instructors in technical institutions and doctors in health facilities and to ensure the availability of teachers in schools, lecturers in colleges and instructors in technical institutions and the doctors in health facilities, and to regulate deputation of doctors abroad, and to provide for matters connected therewith or ancillary thereto;

It is hereby enacted as follows:

**1. Short title, application and commencement.**---(1) This Act may be called the Khyber Pakhtunkhwa (Appointment, Deputation, Posting and Transfer of Teachers, Lecturers, Instructors and Doctors) Regulatory Act, 2011.

(2) It shall apply to teachers serving in primary, middle, secondary and higher secondary schools, lecturers in colleges as well as commerce colleges and instructors serving in technical institutions and doctors serving in the health facilities in the Province of the Khyber Pakhtunkhwa.

(3) It shall come into force at once.

**2. Definitions.**---(1) In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them that is to say,-

(a) "Commission" means the Khyber Pakhtunkhwa Public Service Commission;

- (b) "doctor" means a doctor serving in the health facility;
- (c) "Government" means the Government of the Khyber Pakhtunkhwa;
- (d) "health facilities" mean all health facilities established and managed by the Government to provide medical facilities to general public;
- (e) "lecturer" and "instructor" respectively means a lecturer or an instructor serving in a Technical Institution as the case may be;
- (f) "prescribed" means prescribed by rules made under this Act;
- (g) "rules" mean the rules made under this Act;
- (h) "school" means school in the public sector including primary, middle, secondary school, higher secondary school or an institution of equivalent level imparting education through any system or medium of instruction in the public sector;
- (i) "teacher" means a teacher of primary, middle, secondary or higher secondary school; and
- (j) "technical institution" means and includes a Commerce College or Government College of Management Sciences or Technical Institute or Technical and Vocational Training Center or Skill Development Center in the public sector imparting technical education to students leading to the award of a degree or a diploma or a certificate.

(2) Words and phrases used in this Act, but not defined, shall have the same meanings as respectively assigned to them under the relevant federal law or provincial law or any other statutory order or rules for the time being in force.

3. Appointment, posting and transfer of primary school teachers.---(1) The vacancy of primary school teacher shall be filled in from the candidates belonging to the Union Council of their permanent residence mentioned in their Computerized National Identity Card and domicile, on merit and if no eligible candidate in that Union Council is available where the school is situate, such appointment shall be made on merit from amongst eligible candidates belonging to the adjacent Union Councils:

Provided that on availability of a vacancy, a primary school teacher, appointed from adjacent Union Council, as referred to in this sub-section, shall be transferred against a vacant post in a school of the Union Council of his residence within a period of fifteen days.

(2) Upon marriage, the primary school teacher on request may be transferred to the school in the Union Council, where his spouse, ordinarily resides, subject to the availability of vacancy.

(3) The primary school teacher shall be transferred to other school within the Union Council on completion of tenure as may be prescribed subject to the policy of rationalization for maintaining certain student teachers ratio, if any.

(4) Government shall, within a period not exceeding one year of the commencement of this Act, make arrangement for posting of all the primary school teachers appointed prior to coming into force of this Act, to the schools of their respective Union Councils or adjacent Union Councils, as the case may be.

**4. Appointment of doctors, lecturers, instructors, subject specialists and teachers on adhoc basis.**---(1) Government may, through the competent authorities make adhoc appointment on merit against the vacant posts of doctors, lecturers, instructors, subject specialists and teachers, falling within the purview of Commission, in a district concerned from the domicile holders of that district for a period of one year or till the arrival of recommendees of Commission, whichever is earlier after fulfilling the pre-requisites of giving wide publicity in the press. On assumption of charge of post by recommendee of the Commission, the services of such ad hoc appointee shall stand automatically terminated:

Provided that if no suitable and eligible candidate is available in the district concerned for appointment, then the candidates belonging to the neighbouring districts shall be considered for appointment in the order of their merit.

(2) Save as the appointment made under proviso of this section, "ad hoc appointee" shall serve in the district of his domicile.

(3) The post of a doctor, lecturer, instructor, subject specialist or secondary school teacher who proceeds on training or long leave may be treated as vacant post for the purpose of contract or contingent appointment till the return of such employee from training or long leave and assumption of charge of the post:

Provided that the period of such training or long leave shall not be less than one year and no appointment on contract or contingent shall be made on the post which may fall vacant for a period less than one year.

5. **Initial posting.**---(1) The doctors, the teachers and the lecturers and instructors upon their appointment shall be first posted in the periphery of the zone against whose quota they have been recruited, and they shall not be transferred for a period of at least three years.

(2) Upon expiry of the tenure as referred to in sub-section (1), transfer shall be made only upon the availability of substitute.

6. **Deputation of Doctors.**---(1) Government may allow deputation abroad for all categories of doctors only once in their entire service, for a period not exceeding three years.

(2) Deputation to "Foreign Service" within Pakistan shall be permissible only in respect of medical officers for a period not exceeding three years.

Provided that no further extension, on expiry of agreed tenure shall be given to the doctors who are already on deputation abroad or within Pakistan.

7. **Postgraduate Medical Education.**---(1) The Health Department, on the basis of objective need assessment and analysis, shall determine the intake number of Trainee Medical Officers (TMOs) in Postgraduate Medical Institute (PGMI) and Junior Registrars in Tertiary Care Hospitals every year. This stipulated number shall not exceed in any case.

(2) Any doctor selected or permitted for postgraduate medical training shall be treated on leave without pay and may be entitled only for stipend fixed by Government from time to time for such training.

(3) A doctor selected or permitted for postgraduate medical training shall provide surety bond prescribed by Government ensuring that upon completion of his studies for which he was initially selected, shall compulsorily serve for three years in the district of his domicile and in case of non-availability of a post in the district of domicile, he shall serve for three years in the rural area.

(4) For the purpose of sub-section (3), the doctor shall also provide guarantee of two government officers.

(5) In case of violation of sub-section (3), Government shall serve one month notice upon the doctor for resumption of duty, failing which the amount shall be recovered from him or from the guarantor, as the case may be.

8. **Provisions relating to doctors apply to lecturers and instructors.**---The provisions relating to doctors in section 7 of this Act shall *mutatis mutandis* apply to lecturers and instructors.

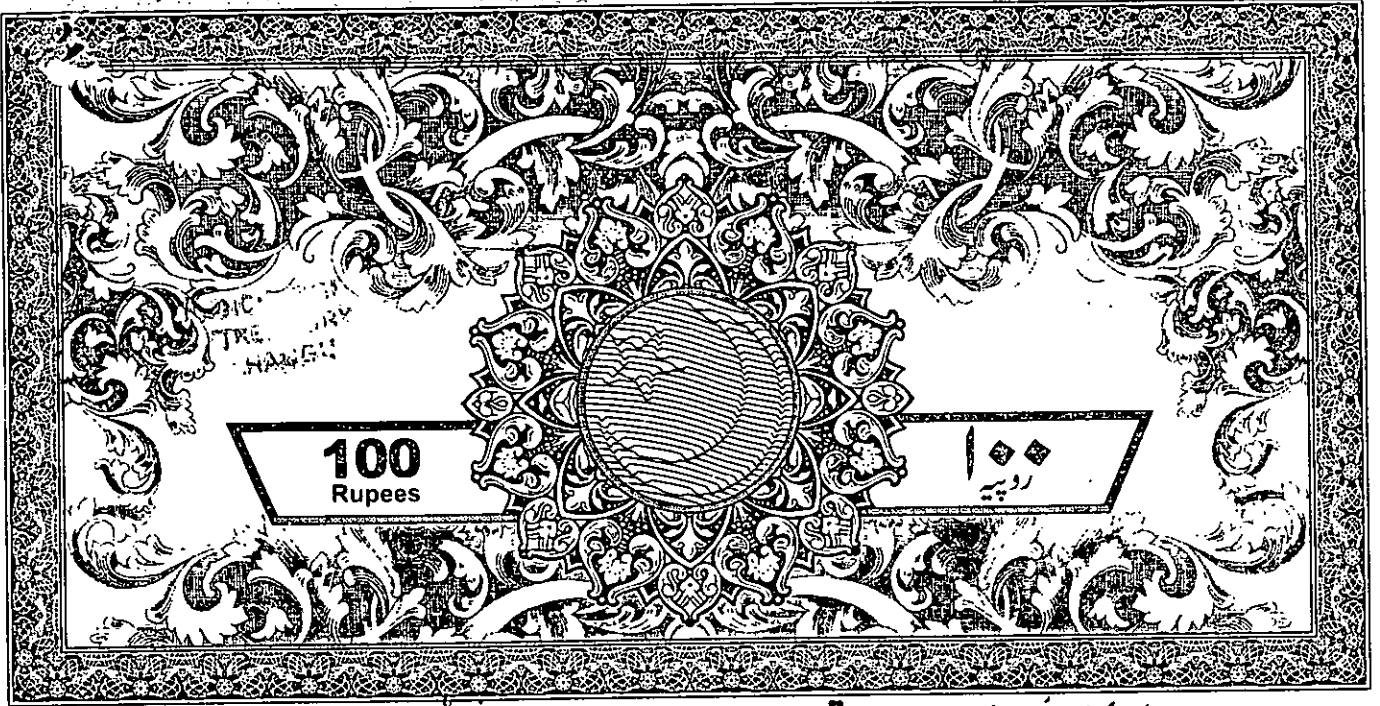
(11)

9. **Act to over-ride other laws.**---The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force.

10. **Jurisdiction barred.**---Save as provided under the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), the Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986 and the Khyber Pakhtunkhwa Service Tribunal Act, 1974 (Khyber Pakhtunkhwa Act No. I of 1974), no order made or proceedings undertaken under this Act, or the rules made there under or any officer authorized by it shall be called into question in any Court, and no injunction shall be granted by any Court in respect of any decision made, or proceedings taken in pursuance or by any power conferred by or under this Act or the rules.

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

12. **Power to make rules.**---Government may make rules for carrying out the purposes of this Act.



DA: *Plz keep it on the record*  
 سیناری لیٹ نمبر  
 (مردانہ از تالیف)  
 اور حال گورنمنٹ پرائمری سکول  
 Dinaur  
 SDE 5  
 29/10/2012

لضامندی: اقرار نامہ

مسی اسماة صدر لوفاز ولد اختر ایدنار خال  
 قومی شناختی کارڈ نمبر 14101-085097-3 موضع ٹلج - حمنڈہ اور حال گورنمنٹ پرائمری سکول (مردانہ از تالیف)

مستزاد ٹی، نمرات II  
 میں بحیثیت ایس پی ایس ٹی ٹیچر سکیل نمبر BPS = 14 پر کام کر رہا رہی ہوں۔

میں حکمہ کے ساتھ مکمل ہوش و حواس اور بلا کسی جبر و اکراہ کے اقرار کرتا کرتی ہوں کہ

1۔ میں BPS 14 BPST 14 PET 15 DM, PSHT, SPST, CT پر دوشن لینے کے خواہاں ہوں۔

2۔ یہ کہ اگر حکمہ سروس بک میں کسی قسم کی بھی انٹری کرنا چاہے تو میرا کوئی اعتراض نہیں ہوگا۔

3۔ یہ کہ سیناری کی بنیاد پر ہونے والی پروموشن کو بخوشی قبول کروں گا اور کسی بھی عدالت میں اپنی پروموشن واپس لینے کوئی عدالتی کارروائی سے باز ہوں گا۔  
 تحریری بیان قلمبند کر دی تاکہ سندر ہے اور عند الحاجة کام آئے۔

العبد

*[Signature]* 14101-8525234-3


*[Signature]* گواہ نمبر 2  
 نام ڈاکٹر دیوارو داس صاحب خان  
 14101-0805097-3

*[Signature]* گواہ نمبر 1  
 نام سر خان وار احمد خان  
 14101-0775982-7

*[Signature]*  
 Near  
 04.8  
 04.8  
 04.8

قیمت 50 روپے	55735	  
<i>M/Am</i>	ایڈوکیٹ:	
1565	بار کونسل/ ایسوسی ایشن نمبر:	
03005730524	رابطہ نمبر:	پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: *KPK Services Tribunal Peshawar*

منجانب: Respondent No 5	دعویٰ: Service Appeal
	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:

**باعث تحریر آنکہ**

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام *محکمہ سروس کیلئے کنٹرولنگ آفیسر / جنرل مہارام / جنرل مہارام / جنرل مہارام* کو پیش کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز ذمیل صاحب کو راضی نامہ کرہے و تقررت ثالث و فیصلہ بر حلف دینے جو اب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زیریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اوزوکیل یا مختار قانونی کو اپنے ہزارہا یا اپنے بجائے لفر رکا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داخستہ منظور و قبول ہوگا دوران مقدمہ میں جو چیز چاہے ہر جائزہ اتوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو ذمیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سندر ہے

*Handwritten signature*

*Handwritten signature*

*Handwritten signature*  
4/9/2024

Manzoor Alam Khan Safi  
Advocate Peshawar High Court  
and Federal Shariat Coun  
Mob: 0300-5730524

کے لیے منظور ہے۔

مقام

نوٹ: اس وکالت نامہ کی فوٹوکاپی ناقابل قبول ہوگی۔

*Handwritten signature*  
*Handwritten signature*

*Handwritten signature*

Respondent # 5



**BEFORE THE LEARNED**  
**SERVICE TRIBUNAL, PESHAWAR**

Sardar Nawaz \_\_\_\_\_

**V E R S U S**

District Education Officer etc. \_\_\_\_\_

*Reply /* **REJOINDER ON BEHALF OF RESPONDENT NO. 5**  
**(SPEEN KHAN)**

**Preliminary Objections:**

- 1) That the petitioner has got no locus standi to file the instant petition.
- 2) That the petitioner has approached this hon'ble court with soiled hands.
- 3) That the petitioner cannot be allowed to his own pick and choose.

**On Facts:**

- 1) Para No. 1 needs no reply.
- 2) Para No. 2 not related to the answering respondent.
- 3) The answering respondent and appellant were

transferred vide departmental general orders / notification, according to the law, it is pertinent to mention here that through notification dated 06.12.2019 as many as 27 officials were promoted and transferred, out of the above said 27 officials who were promoted and transferred, no body made complaint except the present appellant, attitude speaks, itself hence the para is denied.

- 4) The instant para is wrong and baseless, it is apt to say that the it is according to law and policy.
- 5) As there is no need to be aggrieved from the above said notification, the petitioner has got no right to file the instant appeal, hence denied.

**GROUND:**

- A) Wrong and baseless, the impugned notification is according to law, hence denied.
- B) A wrong explanation of Section 3S Sub Section 3 of the KPK (Appointment, Deputation, Posting and Transfer of Teachers Regularity Act, 2011) the appellant, is not trying to understand the spirit of the above said section, and wants to lead the hon'ble forum a wrong conclusion, hence denied.
- C) All the actions are carried out according to the law, the answering respondent seems no justification, of himself being targeted by the appellant, the malafides of the appellant are suffering from the instant para.

D) In reply answering respondent will submit that no prejudice has been caused to the appellant, who is now promoted to upper scale, hence the para is denied.

E-F) Totally baseless malafide and subject to proof, hence denied.

G) The appellant should not be allowed to raise any other ground and to catch the answering respondent by surprise.

It is, therefore, most humbly prayed that on acceptance of this reply the instant service appeal may kindly be dismissed.

Respondent No. 5

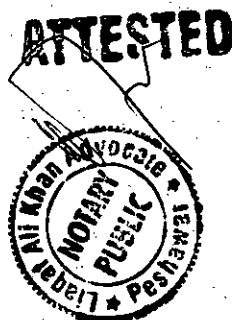
Through

Kanwar Kamal Khan  
Manzoor Alam Khan  
Advocates, Peshawar

Dated: 22.09.2020

**AFFIDAVIT**

I, do hereby solemnly affirm and declare on Oath that the contents of Comments are true and correct to the best of my knowledge and belief.



DEPONENT

22 SEP 2020

BEFORE THE KPK SERVICE TRIBUNAL

PESHAWAR

SERVICE APPEAL No. 1384/2020

Mr. Sadar Nawaz S/o Itbar Khan, PSHT Shams ud  
din Hangu, R/O Mohallah Nawaz Shinwari, P/O  
Zargari Tehsil Tall Distridct Hangu

..... Appellant

VERSUS

1. District Education Officer, Male Hangu.
2. Sub Divisional Education Officer (M) Primary  
Hangu.
3. The Director, (E&SE) Khyber Pakhtunkhwa  
Peshawar.
4. The Secretary to Govt : of (E&SE) Department  
Khyber Pakhtunkhwa Peshawar.
5. Speen Khan S/o Jafar Khan PSHT GPS Soor  
Chapper District Hangu.
6. Muhammad Iltaf S/o Haji Janat Gul PSHT, GPS  
No. 2 Chapri Naryab Teh Thall District Hangu.

..... Respondents

PARAWISE COMMENTS ON BEHLAF OF  
RESPONDENT NO. 6 MUHAMMAD ILTAF  
PSHT GPS NO. 2 CHAPRI NARYAB TEHSIL

THALL DISTRICT HANGU AS GIVEN AS  
UNDER.

Preliminary Objections!

Respectfully Sheweth:

1. That the present appellant has no cause of action.
2. That the instant appellant is bad for mis-joinder and] non-joinder of parties.
3. That the instant appellant is not maintainable in its present form.
4. That the appellant has not come to the court with clean hands.
5. That this Honorable Tribunal has no jurisdiction to entertain the appeal.

PRAYER FACTS

1. Para 1 is correct.
2. Para 2 is partially correct.
3. Para 3 is incorrect. The appellant has been adjusted and posted against vacant post of BPS-15. These promotions are not made on U/C basis. Only appointment as a primary school teacher in BPS-12 are made on U/F basis as per (Appointment, Posting & Transfer of Teacher regularity act 2011 in S.No. 03) copy attached.

4. Para 04 is partially correct. But the Respondent Department has made the promotion of the appellant according to the rules, policy in vogue. The act of the Respondent is not against (Appointment, Posting & Transfer of Teacher regularity act 2011).
5. Para No. 5 is incorrect. The act of the Respondent is lawful, correct and according to the policy and not against the (APT Regularity Act 2011).

### GROUNDS

- A. Para A is incorrect, the act of the Respondent is lawful as per policy of promotion. All are equal in the eyes of law.
- B. Para No. B is false, according to the section 3. Sub: Section 3 states that the primary school teacher BPS-12 to other school with U/Council. But the instant case is not related to PST (BPS-12). The same is the promotion from (SPST) BPS-14 to PSHT (B-15) which can be made any where in the District as per policy as already stated in Para No. 3.
- C. Para C is incorrect, all the SPST (B-14) have been extended equal facility as per policy. All are equal in the eyes of law. The instant case not related to appointment in BPS-12 but is of promotion from SPST BPS-14 to PSHT BPS-15. The case clearly false in promotion/Posting not in appointment /Transfer.

54  
D. Incorrect. The appellant has been treated as per law and policy.

E. The appellant has been treated as per law.

Respectfully Sheweth

I belong a poor family my family member strength 21 these all load only on my shoulder. I am patient of bell pulsy the appellant has no objection on my school. Because where I have been promoted with nearest on my Union Council Naryab 1 difference between my U/C to Chapri Naryab only 05 kilometer. Kindly delete me from this case.

M. Iltaf

Respondent No. 6

Muhammad Iltaf PSHT GPS No. 2 Chapri Naryab

District Hangu.

CNIC No. 14101-0779109-7

Contact No. 03088482248

Dated 04.09.2020





4. *Para No 4 of the comments is incorrect, detail reply is given in Para No 3.*
5. *Para No 5 of the comments is incorrect, the respondent did not deal the appellant according to APT Regularity Act, 2011.*

***Objections to Reply on Grounds:-***

- A) *Para A of grounds of comments is incorrect, the grounds taken in appeal is correct, whereas the grounds taken by the respondents is incorrect.*
- B) *Para B of grounds of comments is incorrect, Section 3 sub (3) clearly states that the Primary School Teacher shall be transfer to the other school within the union council in the above section BPS has not subjected/disputed, only the Primary School Teacher is defined.*
- C) *Para C of grounds of comments is incorrect, detail reply is given in the above Paras.*
- D) *Para D of grounds of comments is incorrect, the appellant has not been treated as per Regularity Act, 2011.*
- E) *Para E of grounds of comments is incorrect, the appellant did not filed instant appeal against the promotion order, while the appellant challenged his transfer order, which was*

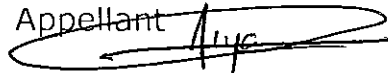
made by respondent No 1 against the Regularity Act, 2011 on political basis, moreover, the affidavit submitted by the appellant in the office of respondent No 1 is pertain to promotion, not to transfer one.

- F) Para F of grounds of comments is incorrect, the appellant has not been treated according to law and rules.
- G) That the appellant with prior leave of this Honourable Tribunal seeks permission to take other grounds as and at the time of arguments.

*It is, therefore, most humbly prayed that on acceptance of this Rejoinder, the appeal of the appellant with any other relief may kindly be allowed as prayed for and the reply of respondents may be ignored.*

Dated:- 04/09/2020

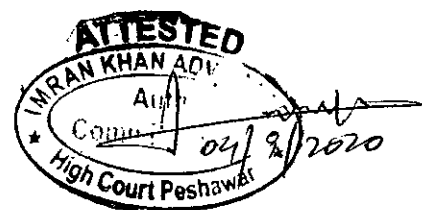
Through:-

Appellant   
Muhammad Ilyas Orakzai  
Advocate, Peshawar.

### AFFIDAVIT

I, Sadar Nawaz S/o Itbar Khan, PSHT, GPS Shams Ud Din Hangu, R/o Mohallah Nawaz Abad, P/o Zargari Tehsil Tall District Hangu do hereby solemnly affirm and declare on oath that the contents of the Rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.

*S. Nawaz*  
DEPONENT



KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 4140 /ST Dated 28 /12/ 2020


To

The District Education Officer Male,  
Government of Khyber Pakhtunkhwa,  
Hangu.

Subject: JUDGMENT IN APPEAL NO. 1384/2020, MR. SADAR NAWAZ.

I am directed to forward herewith a certified copy of Judgement dated 21.12.2020 passed by this Tribunal on the above subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.