27.11 .2019

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

Learned counsel for the appellant states that he is under instructions to request for withdrawal of instant appeal as grievance of appellant has since been redressed.

Disposed of accordingly. File be consigned to record.

Chairman

ANNOUNCED 27.11.2019

08.10.2019

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

Learned AAG requests for adjournment in order to procure reply/comments from the respondents. Adjourned to 22.10.2019 on which date the requisite reply/comments shall positively be submitted.

Chairman

22.10.2019 Junior counsel for appellant and Mr. Kabirullah Khattak, Additional AG for the respondents present.

Learned Additional AG once again requests for adjournment in order to procure reply/comments from the respondents. Adjourned to 06.11.2019 on which date requisite reply/comments shall positively be submitted.

CHAIRMÂN

06.11.2019 Counsel for the appellant and Addl. AG for the respondents present.

Learned AAG seeks time to contract the respondents and furnish written reply/comments. To come up for requisite reply/comments as a last chance on 27.11.2019 before S.B.

Chairman \

Affeal No. 1140/2019 Zardad Khan Vs Gott

25.09.2019

Counsel for the appellant present.

Learned counsel for the appellant has produced today a copy of notification dated 30.01.2018 issued by Additional Chief Secretary FATA whereby the appellant was transferred and posted in Government Degree College, Ekka Ghund Mohmand. Contends that in utter disregard of the transfer/posting policy of the Provincial Government the appellant was again transferred from GDC Ekka Ghund to GDC Kalaya Orakzai on 03.06.2019. It was also argued that the impugned order dated 03.06.2019 was not issued in public interest and, as per its contents, was issued in pursuance to the decision of the Cabinet which was not a competent authority for the purpose. The impugned order is, therefore, liable for setting aside.

In view of arguments of learned counsel and the available record, instant appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 08.10.2019 before S.B.

Alongwith the appeal there is an application for suspension of operation of transfer order dated 03.06.2019. Notice of the application be also given to the respondents for the date fixed. Till next date the operation of impugned order shall remain suspended, if not complied with

Chairman .

Anderan Deposited Security & Process Fee

Form- A

FORM OF ORDER SHEET

Court of		
Case No	1140/2019	

* 1	Case No	1140/2019
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	. 2	3
1-	12/09/2019	The appeal of Mr. Zardad Khan presented today by Mr. Habibullah
		Mohmand Advocate may be entered in the Institution Register and put up
		to the Worthy Chairman for proper order please.
		REGISTRAR 12/9/
2-	13/09/19.	This case is entrusted to S. Bench for preliminary hearing to be
1		put up there on 18109119.
		CHAIRMAN
, ,		
	18.09.2019	Counsel for the appellant present.
	10.03.2013	Learned counsel requests for time to further document
		the brief by adding the posting order of appellant at
		Government Degree College, Yaka Ghund, Mohmand Agency.
3		May do so on or before next date of hearing. Adjourned
		to 25.09.2019 before S.B.
		Chairman
	•	
1		

Government of Khyber Pakhtunkhwa through Chief Secretary and others......(Respondents)

INDEX

S.No.	Description of Documents	Annex	Pages
1.	Service Appeal		1-4
2.	Affidavit		. 5
3.	Addresses of the Parties		6
4.	Application with affidavit		7-9
5.	Copy of Departmental	A	10-11
	Appeal/Representation		
6.	Copy of Imposition of Ban on	В	12
	Posting/ Transfer dated 25/09/2018		<u>.</u>
7.	Copy of impugned transfer order	С	13-14
8.	Letter dated 12/07/2019	D	15
9.	Wakalat Nama		16

Appellant

Through

Dated: 12/09/2019

Habib Ullah Mohmand

Advocate High Court,

Peshawar.

&

Muhammad Asim

Advocate Peshawar. Cell: 0321-9087842



Khyber Pakhtukhwa Service Tribunat

Service Appeal No. 140 /2019

Piery No. 1242

Zardad Khan, Assistant Professor, Government Degree College, Yakaghund, District Mohmand......(Appellant)

VERSUS

- 1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
- 2. Secretary Higher Education, Civil Secretariat, Peshawar.
- 3. Director Elementary and Secondary Education, Hashtnagri, G.T. Road, Peshawar.....(Respondents)

PUKHTUNKHWA SERVICE TRIBUNAL ACT 1974, THAT APPELLANT SUBMITTED THE DEPARTMENTAL APPEAL BEFORE THE RESPONDENTS **DEPARTMENT AGAINST** THE IMPUGNED TRANSFER ORDER DATED 03/06/2019, BUT AFTER **PASSING** STATUTORY **PERIOD** THERE IS NO

THE

RESPONDENTS

APPEAL UNDER SECTION 4 OF KHYBER



Respectfully Sheweth:

RESPONSE FROM

DEPARTMENT.

1. That the appellant is law abiding citizen of Pakistan having fundamental rights which is guaranteed by

(2)

the Constitution of Islamic Republic of Pakistan, 1973.

- That appellant was initially appointed as Lecturer of Pakistan studies at Government Degree College, Landi Kotal on dated 29/08/2007.
- 3. That appellant rendered more than 10 years services to the parent department and there is no objection claim against the appellant but suddenly illegally transferred from District Mohmand Degree College to District Oraakzai Kalaya.
- 4. That in fact the appellant was transferred with malafide intention and the tenure of the appellant was also not completed under the law i.e. Appointment, Posting Transfer Rules, 1989.
- 5. That respondents department issued notification and put/ imposed ban on posting, transfer of teachers, professor due to the elections of newly merged districts of Khyber Pakhtunkhwa, but despite of that the respondent department transferred the appellant within a short span of

time, which is against the law and also against the norms of justice.

- 6. That in fact the appellant tenure was not completed and illegally transferred from District Mohmand to District Orakzai/ Kalaya which is also against the law and also norms of justice.
- 7. That in fact the appellant belongs to Sunni sect and where the petitioner is transferred i.e. district Orakzai/ Kalaya area have Shia community and therefore, there is strong apprehension of bloodshed between the Shia and Sunni Community and continuously the Shia community giving threats to the present appellant and the life of the appellant shall be miserable, therefore needs cancellation of impugned transfer order.
- 8. That at last appellant submit the departmental appeal/ representation before the respondent No. 2 on dated 10/06/2019 still there of no response, which is against the law and also against the norms of justice.

9. That appellant will take other grounds at the time of arguments with the prior permission of this Hon'ble

It is, therefore, most humbly prayed that by accepting of this Service Appeal, that the impugned transfer order dated 03/06/2019 of respondents department may kindly be declared as null and void, void-ab-initio and may also be cancel/set aside and the appellant may kindly be retained to continue his services at Government Degree College Yakaghund, District Mohmand for sake of public interest/justice.

Appellant

Through

Dated: 12/09/2019

Tribunal.

Habib Ullah Mohmand Advocate High Court,

Peshawar.

83

Muhammad Asim Advocate Peshawar.

Service Appeal No/2019			
11	•		
Zardad Khan		(Appella	ant)
VERSUS			
Government of Khyber Pakhtunkhwa th	rough Ch	ief Secr	retary
and others	(Re	espond	ents)

AFFIDAVIT

I, Zardad Khan, Assistant Professor, Government Degree College, Yakaghund, District Mohmand, 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 Hon'ble Tribunal.

DEPONENT

CNIC: 17301-6172635-7

Service Appeal No	/2019	
Zardad Khan		(Appellant)
	VERSUS	
Government of Khyber	Pakhtunkhy	wa through Chief Secretary
and others		(Respondents)
	. •	
ADDRESSI	ES OF THE	PARTIES
APPELLANT:		
Zardad Khan, Assistan	t Professor, (Government Degree College
Yakaghund, District M		
RESPONDENTS:		
1. Government of Khyber	Pakhtunkhv	va through Chief Secretary
Civil Secretariat, Pesha	war.	
2. Secretary Higher Educa	ation, Civil S	ecretariat, Peshawar.
3. Director Elementary a	and Seconda	ry Education, Hashtnagri
G.T. Road, Peshawar.		Blad Than
	Through	Appellant
Dated: 12/09/2019		Habib Ullah Mohmand Advocate High Court, Peshawar.

Muhammad Asim
Advocate Peshawar...



C.M. No/2019					
In		··			
Service Appeal No/2	2019				
Zardad Khan	• • • • • • • • • • • • •	••••••		(Appe	llant)
VER	RSUS				· ·
Government of Khyber Pakh	ıtunkhwa	throu	gh Ch	ief Secr	etary
and others			(R	-spond	entsl

APPLICATION FOR SUSPENSION OF THE OPERATION OF IMPUGNED TRANSFER ORDER DATED 03/06/2019, TILL THE FINAL DECISION OF THE MAIN SERVICE APPEAL.

Respectfully Sheweth:

- 1. That the above titled Service Appeal is being filed before this Hon'ble Tribunal, in which no date of hearing has yet been fixed.
- 2. That on the face of it, the appellant has got a strong arguable case and is sanguine about its success.

- That the balance of convenience also lies in favour
- 4. That if the operation of the impugned transfer order dated 03/06/2019 is not suspended then the appellant would sustain irreparable loss.

It is, therefore prayed that on acceptance of this application, the operation of the impugned transfer order dated 03/06/2019 may kindly be suspended, till the final disposal of the main Service Appeal.

Appellant

Through

Dated: 12/09/2019

3.

of appellant.

Habib Ullah Mohmand

Advocate High Court, Peshawar.

&

Muhammad Asim

Advocate Peshawar.

C.M. No/2019	
In	
Service Appeal No/2019	
Zardad Khan	(Appellant)
VERSUS	3
Government of Khyber Pakhtunkh	nwa through Chief Secretary
and others	(Respondents)

AFFIDAVIT

I, Zardad Khan, Assistant Professor, Government Degree College, Yakaghund, District Mohmand, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

DEPONENT

CNIC: 17301-6172635-7

An x (A)

To

The Secretary, Higher Education Department, Khyber Pakhtunkhwa, Peshawar.

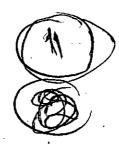
Subject:

Application/ departmental appeal/ representation of cancellation of transfer order of applicant/ petitioner namely Zardad, Assistant Professor BPS-18 on dated 03.06.2019 of above noted case on the basis of sectarian issues and threats also.

Respectfully Sheweth;

- 1) That appellant is a law abiding citizen of Pakistan having fundamental rights of constitution of Pakistan, 1973.
- 2) That appellant was initially appointed as Lecturer of Pakistan Studies at Govt. Degree College, Landi Kotal on dated 29.09.2007.
- 3) That appellant rendered more than 10 years services to the parent department and there is no objection claim against the appellant but suddenly transferred from District Mohmand Degree College to District Orakzai Kalaya.
- That in fact the appellant was transferred with malafide intention and the tenure of the appellant was not completed under the law i.e. Appointment, Posting Transfer Rules, 1989.
- 5) That respondent department i.e. Election Commission of Pakistan issued notification on dated 25.09.2018 that there shall be no posting transfer inside R.P and newly merged District of R.P. but despite that the appellant was transferred from District Mohmand to District Orakzai/ Kalaya which is against law and norms of justice.
- That in fact the petitioner's tenure was not completed and suddenly transferred from District Mohmand to District Orakzai/ Kalaya which is also against the law and also norms of justice.







7) That in fact the appellant belongs to Sunni sect and where the petitioner is transferred i.e. district Orakzai/ Kalaya area have Shia community and therefore, there is strong apprehension of bloodshed between the shia and sunni community and continuously the shia community giving threats to the present appellant and the life of the appellant shall be miserable therefore, needs cancellation order.

It is, therefore, most humbly prayed that on acceptance of this Departmental appeal/ Representation the impugned transfer order dated 03.06.2019 may kindly be cancelled and be declared null and void, against law and the present appellant may kindly be retained at the present station i.e. Govt. Degree College Yakaghund, District Mohmand for sake of public interest/ justice.

Appellant

Zardad

Assistant Professor

Govt. Degree College

Yakaghund, District Mohmand

C.C.

1) Chief Minister, Khyber Pakhtunkhwa

2) Secretary Law, Civil Secretariat, Peshawar.

3) Secretary Higher Education, Peshawar.

4) Director Higher Education Department, Peshawar.

Submission o

Any R



ANB

ADVISOR TO CHIEF MINISTER FOR ELEMENTARY AND SECONDARY EDUCATION, KHYBER PAKHTUNKHWA

No. PS/Adv:/E&SE/KPK/1-2/2018 Dated, Peshawar the, 25th September, 2018

25/9/212

Subject:

IMPOSITION OF BAN ON POSTINGS/TRANSFERS.

My Dear -

Arrihad human

Notice are coming in the knowledge of the undersigned that frequent posting transfers are being carried out in E&SE department specially at lower formation in districts which results much complications for the undersigned and public representatives. This practice is also suffers the teaching performance at schools particularly when we have launched enrollment campaign.

Hence in order to set a well procedure we have to set together and seek a proper and uniform policy for such posting transfer.

In view of the above it is requested that ban may be imposed on all posting transfer of teaching staff at all forums including districts till further orders. However in case the transfer of any staff is necessary on need basis, the same may be brought into the notice of the undersigned before issuance of same.

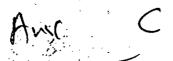
All district education officers (Male/ female) may be informed accordingly

(Zia Ullah Khan Bangash)

Secretary to Government of Khyber Pakhtunkhwa, Elementary and Secondary Education.

Copy for information to P S O to Chief Minister

(Zie Ullen Kahn Bengesh)





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NOTIFICATION

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20: Mr. Adily Hussnin Shab. GDC Paharpur GDC Danzindi. Associate Professor of Physics. 21: Mr. Inayat (Pllah) (Shab) GDC, SK Balar GPGC Misan Shab. (Carry Assistant Professor of Bottony (Banu)) Assistant Professor of Bottony (Banu) Professor of Political Science (GPGC Banilly of GDC Junitude (Carry Brofessor of Political Science) 23: Muharninat Aslam (GPGC Land GDC Ghillo (Omkan))
21: Mr. Inover (Flight (Shah) GDC SK Bala) GPGC Miran Shah (Banu) Axistaum Professor of Botony (Banu) 21: Mr. Azad Khim Associate GPGC Banhin (GDC Junitude GDC
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26 Dr. (Srize Australia Luceurer illin) Goyta College, GPGC Paraclimar a Pushio Pushio Peshawar

SECRETARY TO GOVT. OF KLIYBER PAKHTUNKHWA HIGHER EDUCATION DEPARTMENT

Eoust: No & Date Ever

Copy forwarded to the

- Accountant General Akhyber Pakhunkhwa Peshawar
 Director Higher Education, Khyber Pakhunkhwa Peshawar
 Depuly Director SHEMIS Cell Higher Education Depulment
 Director Education, Merced Areas
 Rinnopals of the Colleges concerned
 District Accounts Officer, concerned
 Officers Concerned

Section Officer (Colleges 111)





RECTORATE OF HIGHER EDUCATI KHYBER PAKHTUNKHWA

Rano Garhi, Peshawar

Tel # 091-9210242 / 9211025

Facebook.com/dhekppeshawar

The Secretary

Govt; of Khyber Pakhtunkhwa,

Higher Education Department Peshawar.

SUBJECT

CANCELLATION OF TRANSFER ORDER.

Respected Sir,

السلام عليكم

I am directed to enclose herewith a copy of self-contained application in respect of Mr. Zardad Khan, Assistant Professor of Pakistan Studies, Govt; Degree College, Ekka Ghund, District Mohmand requesting therein for cancellation of transfer order duly forwarded by the Principal with the remarks that the request of the officer concerned may be considered as per rules/policy, Please.

Yours Faithfully,

: Director (Establish)

12) COPE O 20 1/2 (12) (12) (12) (12) (12) (12) Grepris (mb, 2019)
Zavjad Khan Afteal ___ دعوی - -- /- /-- - -/-/-7.7 ماعث تحرريا نكه مقدمه مندرجه عنوان بالا میں اپن طرف سے واسطے پیروی وجواب دہی وکل کاروال و تعلقہ را مل والی متعلقہ را میں المرا آن مقام مسلسل الرباء فئے مندا لا مراسلے کے المراب فیمندا لا والی المراب کے مندا لا والی المراب کے المراب کے ا مقرر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کومقد سے کل کاروائی کا کامل اختیار ، وگا۔ نیز جمع موالم کا کی مور و لو وكيل صاحب كوراضى نامه كرية وتقرر ثالت و فيعله برحلف دييج جواب دى اورا قبال دعوى اور بسورت ذمرى كرفي اجراءا درصولي چيك دروبيدار عرضي دعوى ادر درخواست برسم كي تقيديق زرایں پردستخط کرانے کا اختیار ہوگا۔ نیز صوریت عدم بیروی یا ڈگری میکطرفہ یا بیل کی برا مدگی ادر منسوخی گرانس پردستخط کرانے کا اختیار ہوگا۔ نیز صوریت عدم بیروی یا ڈگری میکطرفہ یا بیل کی برا مدگی ادر منسوخی نیز دائر کرنے اپیل نگرانی ونظر ثانی دبیروی کرنے کا ختیار ہوگا۔ از بصورت ضرورت مقدمہ ندکور A Hestus کے کل باجز دی کاروائی کے واسطے اور دکیل یا مختار قانونی کواپنے ہمراہ یا اپنے بجائے تقرر کا ختیار کھے ہوگا۔اورصاحب مقررشدہ کوبھی وہی جملہ ندکورہ باا ختیارات حاصل ہوں مےاوراس کا ساختہ برواخت منظور تبول ہوگا۔ دوران مقدمہ میں جوٹر چدد ہرجاندالتوائے مقدمہ کے سبب سے وہوگا کوکی تاریخ پیشی مقام دورہ پر ہویا حدہ یا ہر ہوتو وکیل صاحب پابند ہوں ہے۔ کہ بیروی ندگور کریں۔لہذاوکالت نامیکھدیا کہ ہندر ہے۔ بقاع رئيس المين المعان کے لئے منظور ہے۔



FATA SECRETARIAT (SOCIAL SECTORS DEPARTMENT) WARSAK ROAD PESHAWAR

Dated Peshawar the January 30, 2018

NOTIFICATION

No.SO/Edu/SSD/FATA 139-2-4 The following transfers / postings are hereby ordered with immediate effect in the interest of Public Service.

	and the control of th		
S#	Name of Officer with	Posted / Transferred	Remarks
	Designation and Place	to	
1	Mr. Muhammad Fayyaz,	Govt. Degree	Against the vacant
	Associate Professor	College Nawagai	post of Principal-
	(BS-19), Govt. Degree	Bajaur Agency.	(BS-20) in his own
1	College Ekka Ghund		pay & scale.
	Mohmand Agency.		
2	Mr. Zardad Khan,	Govt. Degree	Vice S.No. 1 in his
	Assistant Professor of Pak	College Ekka Ghund	own pay and scale.
	study (BS-18), Govt.	Mohmand Agency.	
	Degree College Jamrud		
	Khyber Agency		
3	Mr. Muhammad Tahir,		Vice S.No.2
1	Assistant Professor of		
	Political Science (BS-18),	Khyber Agency	
:	Govt. Degree College		
	Nawagai Bajaur Agency.		

2. Furthermore, S.No.1 is hereby authorized to act as Drawing and Disbursing Officer for Govt. Degree College Nawagai Bajaur Agency.

Additional Chief Secretary FATA

Copy of the above is forwarded to the:

- 1. Director Education FATA.
- 2. Principals concerned.
- 3. PS to ACS FATA.
- 4. Agency Accounts Officers Concerned.
- 5. PS to Secretary SSD FATA.
- 6. Officers concerned.

ABDUL MANAN
Section Officer Education