


FORM OF ORDER SHEET

Court of _____

Case No.- _____ 726/2023 _____

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge |
|-------|---------------------------|--|
| 1 | 2 | 3 |
| 1- | 31/03/2023 | <p>The appeal of Mr. Wakeel Khan presented today by Mr. Rahim Khan Advocate. It is fixed for preliminary hearing before touring Single Bench at Swat on _____. Notices be issued to appellant and his counsel for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p> |

BEFORE THE SERVICE TRIBUNAL KHYBER PUKHTONKHWA PESHAWAR

Service Appeal No 726 /2023.

WAKEEL KHAN PSHT HEAD TEACHER GOVT PRIMARY SCHOOL REGA No.1 BUNER

"APPELLANT"

VERSUS

DISTT EDUCATION OFFICER MALE E & S EDUCATION DISTT BUNER AND OTHERS

INDEX

| S.NO | Description | Annexure | Page No |
|------|---|----------|---------|
| 1 | Memo of Service Appeal | | 1-2 |
| 2 | Memo of Addresses of Parties | | 3 |
| 3 | Application for Stay | | 4 |
| 4 | Affidavit | | 5 |
| 5 | Copy of Cease office order no 6155 dated 18-12-2018 | 'A' | 6 |
| 6 | Copy of Impugned order no 5815-20 dated 22-11-2022 | 'B' | 7 |
| 7 | Copy of Inquiry Letter no 7650-52 dated 8-2-2023 | 'C' | 8 |
| 8 | Copy of Departmental Appeal of the Appellant dated 20-12-2022 | 'D' | 9 |
| 9 | Copy of Salary Stoppage E.Mail print | 'E' | 10 |
| 10 | Wakalat Nama | | 11 |

APPELLANT

Through Counsal

Rahim khan

Advocate High Court

Office; at Distt Courts Daggar Buner

Cell =03439049185

Dated, 29/03/2023

①

IN THE SERVICE TRIBUNAL KHYBAR PUKHTOONKHWA PROVINCE PESHAWAR AT PESHAWAR

SERVICE APPEAL NO. 726 /2023.

WAKEEL KHAN S/O SAEEDULLAH KHAN R/O VILLAGE KALPANI TEHSIL GAGRA DISTRICT BUNER /PSHT
GPS REGA DISTT; BUNER .

"APPELLANT"

VERSUS

1. District Education Officer Male E & S Education Deptt; District Buner.
2. Director Education KP province Peshawar at Peshawar.
3. Secretary Education KP Province E & S Peshawar Secretariat Peshawar.

"RESPONDENTS"

SERVICE APPEAL UNDER SECTION 4 OF THE SERVICES TRIBUNAL ACT 1974 AGAINST THE TRANSFER ORDER ENDORSEMENT NO.5815-20 DATED 22/11/2022, ISSUED BY THE RESPONDENT NO.1 IN UTTER DISREGARD OF THE LAW AND RULES EVEN THE KHYBAR PUKHTOON KHWA APPOINTMENT, POSTING & TRANSFER POLICY OF DOCTORS LECTURERS AND TEACHERS 2011, ON MALA FIDE INTENTION AND - ILL WILL AND PERSONAL GRADUGES UNDER POLITICAL INFLUENCE.

Respectfully Sheweth;

PRAY IN APPEAL

On acceptance of the instant Service Appeal the Order Impugned of the appellant Endorsement No.5815-20 dated 22/11/2022, passed by the respondent No.1 on mala fide intention and ill will in utter disregard of the relevant Rules and law, being illegal and an arbitrary nature may be set aside from the date of its issue. Further relief to which the appellant is otherwise entitled under the law may also be granted though not specifically prayed for in the instant appeal may also be granted in favour of the appellant.

FACTS

1. That the appellant has been serving in the Education Department District Buner since 1999 as PST and then he was promoted on the bases of his good performance during and performing his duties as PSHT.
2. That the respondent No.1 while performing his duty as Deputy D.E.O Buner has for Political gaining just to please some of the local MPAs and MNA had while he for the time being was on the seat of DEO, wrongly on personal grudge and under political influence passed an illegal order was deducted the salary of the appellant which was then ceased and withdrawn vide order dated 08/12/2018 while found baseless. Copy of the said order is annexed as "A". *page-6*
3. That when the respondent No.1 again posted in Distt; Buner as DEO Buner was in search of a chance to take revenge of previous enmity and personal Grudge and without any lawful or reasonable ground or justification or enquiry he becoming a self judge and have transferred the appellant against the policy and even the E & D rules from Rega Union Council Tehsile Gagra to union Council Tora patay Tehsile Chagerzi on disciplinary grounds vide Order Impugned End; No. *5815-20* dated *22* /11/2022. copy annexed as "B" *page 7*
4. That Departmental Appeal has timely been filed against the same impugned order which is so far pending, on the mercy of, the appellate authority, who has so far been not considered the same or disposed off on either way. Though an order was made by the appellate authority that enquiry officer be appointed and enquiry be made, but after lapse of considerable period no enquiry has been conducted so far. Which seems also a mala fide act on part of the appellate authority. Who by cheating day to day intimating that very soon the enquiry will

(2)

be conducted .which has also as a tool, basing a mala fide intention and as a partner and colleague of the respondent No.1 , is an act, just to waste time, specified for service appeal for the appellant. *copy of appeal is annex - "D" page 9 & 10 and enquiry letter annexed "E" page 8*

5. That monthly salary of the appellant has been stopped illegally and in violation of the fundamental rights of the appellant, which is also annexed for ready reference as "B" page 10 .Rt
6. That neither departmental appeal has been considered within the stipulated period, nor the same has been rejected despite lapse of more than ninety days, hence the appellant having no alternative adequate remedy, except to file the instant Service Appeal on the following grounds among other inter alia.

GROUNDS

- a. That the order impugned is against the law and policy and even has been issued in utter disregard of the Law ,Rules laid down for, even under the K.P Civil Servants Act 1973 /KP Govt; Servants (E & D) Rules 2011, hence is not Tenable under the law but is liable to be set aside from the date of it issue, being not existed .
- b. That no Charge sheet , Show cause Notice of any enquiry of personal hearing as prescribed under the law/rules concerned has been observed before issuing of the order impugned, hence order impugned is liable to be set aside from the date of its issue That the appellant has ever been not guilty of misconduct or any corruptions or else other which is liable to minor or major penalty under E & D Rules 2011 or any other law exists.
- c. That before the order impugned was issued proceeding was initiated against the appellant , which was required under the relevant rules. Hence the order impugned is totally illegal and is an arbitrary nature and is not binding on the appellant. Hence not existed in the law, so be set aside from date of its issue.
- d. That the order impugned is also contrary norm and mode laid down in the K.P Appointment , Deputation, Posting and Transfer of TEACHERS, LECTURERS, INSTRUCTURES & DOCTORS Regulatory ACT 2011 (KP Act No.XII of 2011). Hence is not binding on the appellant but is liable to be set aside from the date of its issue.
- e. That further legal and factual grounds will also be advanced at the time of arguments with due permission of this Hon; Tribunal.

Therefore it is humbly prayed that on acceptance of this Service Appeal the relief sought in the prayer portion , on the subject of the instant service appeal may, be granted in favour of the appellant. Further relief to which the appellant is otherwise entitle may also graciously be granted in favour of the appellant.

Through Counsel

Wli
ARPELLANT

Rahim Khan
RAHIM KHAN

Adv High Court

Office; at Distt; Courts Daggar Distt; Buner

Cell= 03439049185

Dated, 29/03/2023

CERTIFICATE

It is to certify that no such like appeal on the subject has been filed any where in this Hon; Service Tribunal or in any other competent Court or Forum, or pending any court or has been decided.

Wli
ARPELLANT

(3)

IN THE SERVICE TRIBUNAL KHYBAR PUKHTOONKHWA PROVINCE PESHAWAR AT PESHAWAR

SERVICE APPEAL NO. _____/2023.

WAKEEL KHAN versus D.E.O Male Buner and others.

ADDRESSES OF PARTIES.

1. WAKEEL KHAN S/O SAEEDULLAH KHAN R/O VILLAGE KALPANI TEHSIL GAGRA DISTRICT BUNER /PSHT GPS REGA DISTT; BUNER .

"APPELLANT"

2. District Education Officer Male E & S Education Deptt; District Buner.

3. Director Education KP province Peshawar at Peshawar.

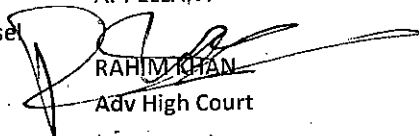
2. Secretary Education KP Province E & S Peshawar Secretariat Peshawar.

"RESPONDENTS"



APPELLANT

Through Counsel



RAHIM KHAN

Adv High Court

Office; at Distt; Courts Daggar Distt; Buner

4

IN THE SERVICE TRIBUNAL KHYBAR PUKHTOONKHWA PROVINCE PESHAWAR AT PESHAWAR

SERVICE APPEAL NO. _____/2023.

WAKEEL KHAN versus D.E.O Male Buner and others.

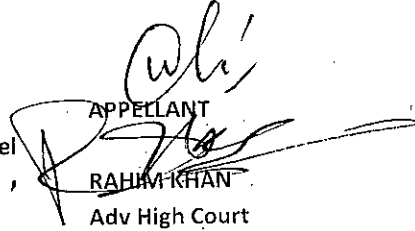
APPLICATION FOR AD INTERIM RELIEF IN A SHAPE OF SUSPENDING THE ORDER IMPUGNED
ENDORMENET NO.5815-20 DATED 22/11/2022, ISSUED BY THE RESPONDENT NO.1 .

Respectfully sheweth;

1. That the impugned order as mentioned above has so far not been implemented by appellant and his Departmental Appeal is still pending for enquiry and decision.
2. That the order impugned is illegal and having no base while totally based on mala fide intention and ill will.
3. That the impugned order is on administrative ground and no disciplinary proceeding has been initiated against the appellant as no show cause notice or charge sheet before passing the same order impugned as pre requisite under the E & D Rule 2011.
4. That the same order is also in violation of the Act concerned KP 2011.
5. That entire contents of the Service appeal on the subject may be considered contents of this application.
6. That further points would be advanced at the time of arguments.

Therefore prayed that on acceptance of this application the relief sought may be granted in favour of the appellant.

Through Counsel


APPELLANT
RAHIM KHAN
Adv High Court

Office; at Distt; Courts Daggar Distt; Buner
Dated, 29/03/2023

(5)

BEFORE THE SERVICE TRIBUNAL KHYBER PUKHTONKHWA PESHAWAR

Service Appeal No _____/2023.

WAKEEL KHAN PSHT HEAD TEACHER GOVT PRIMARY SCHOOL REGA No.1 BUNER

"APPELLANT"

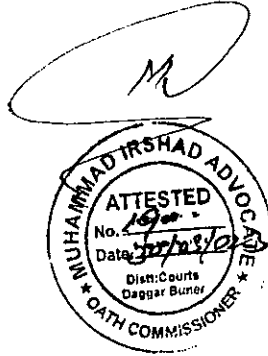
VERSUS

DISTT EDUCATION OFFICER MALE E & S EDUCATION DISTT BUNER AND OTHERS

AFFIDIVATE

I WAKEEL KHAN S/O SAEEDULLAH KHAN R/O Village Kalpani Tehsil Gagra Distt Buner / PSHT GPS Rega No.1 distt Buner, do hereby solemnly affirm and declare on oath that the entire contents of this Service Appeal are true and correct . And that no service Appeal on the same subjects matter or issue has earlier been filed by Appellant on the same subject is pending before this Honour Tribunal or in any other forum else where.


WAKEEL KHAN/DEPONENT





OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) BUNER
PHONE & FAX NO. 0939-510468
EMAIL: edobuner@gmail.com

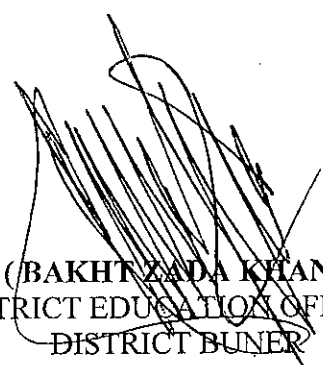


No - 6155
dated 8.12.2018

OFFICE ORDER:

The competent authority is pleased to cease the inquiry against Mr Wakeel Khan PSHT GPS Rega No.1 and Mr Said Qadeem Khan PST GPS Rega No.1 as they were found absent on 08/12/2017 during surprise visit of Deputy DEO (M) Buner.

This office will not carry out any Departmental proceeding against the above mentioned teachers which they found absent on the mentioned date.


(BAKHT ZADA KHAN)
DISTRICT EDUCATION OFFICER(M)
DISTRICT BUNER



Impugned order
Annex (B)
OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) DISTRICT BUNER
PHONE & FAX NO. 0939-510468
EMAIL: edobuner@gmail.com



TRANSFER ORDER

Consequent upon surprise visits by the undersigned on various dates to GPS Rega, the Competent Authority has been pleased to transfer Mr. Wakeel Khan PSHT, GPS Rega to GPS Tora Patay Tehsil Chagharzi on disciplinary grounds due to his absence, inefficiency, slackness, shirkness and day to day aggravating situation of school, in the best interest of public service with immediate effect.

Note:-

Necessary entries to this effect should be made in their service books.

(IFTIKHAR UL GHANI)
DISTRICT EDUCATION OFFICER
(MALE) BUNER

Endst: No. 5815-20 Dated: 22/11/2022
Copy of the above is forwarded to: _____

1. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. DAO Buner.
3. DMO, (EMA) Buner.
4. SDEOs Concerned with the directions to SDEO (M) Gagra to relieve him immediately.
5. Officials Concerned.
6. Master File.

[Signature]
DISTRICT EDUCATION OFFICER
(MALE) BUNER

22/11/22

Annex 'e' P-8



**DIRECTORATE OF ELEMENTARY AND SECONDARY
EDUCATION KHYBER PAKHTUNKHWA.**

NOTIFICATION.

Consequent upon approval of the competent authority (Director Elementary & Secondary Education, Khyber Pakhtunkhwa), Mr. Midrarullah Jan DEO (Male) Malakand is hereby nominated as enquiry officer to conduct enquiry in light of the appeal lodged by Mr. Wakeel Khan PSHT GPS Rega No. 1 District Buner.

The Inquiry Officer shall submit his report with recommendations within fortnight to this Directorate by taking all stock holders on board, to proceed further into the matter.

(Encls: Attached)

(Dr. Hafiz Muhammad Ibrahim)
DIRECTOR

Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

7650-52
Endst: No. _____/F.No./Appeal Against Transfer Order /Vol-2/Estab-1

Dated: 08 / 02 / 2023.

Copy forwarded for information and necessary action to the:-

1. Mr. Midrarullah Jan District Education Officer (Male) Malakand.
2. The District Education Officer (Male) Buner.
3. P.A to Director Elementary & Secondary Education Local office.

Assistant Director-III (Estab-1)
Directorate of Elementary & Secondary Edu:
Khyber Pakhtunkhwa, Peshawar.

9/11/22

D/Appeal

Annex 'D'

P-9

بخدمت جناب ڈائریکٹر صاحب ایلیمنٹری اینڈ سیکنڈری ایجوکیشن خیبر
پختونخوا

عنوان: اپیل منسوخ ٹرانسفر آرڈر جی پی ایس ریگا نمبر 1 ٹو جی پی ایس تورا پٹہ
ضلع بونیر

مؤدبانہ گزارش ہے کہ بندہ جی پی ایس ریگا نمبر 1 سب ڈویژن گاکرہ ضلع بونیر
میں ڈیوٹی سرانجام دے رہا ہے۔ مورخہ 22-11-2022 کو کچھ / پچھلی مصروفیات کی
وجہ سے سکول سے چھٹی کرنا پڑی اور سینئر مدرس سید قدیم خان کو بذریعہ ٹیلی
فون انچارج مقرر کیا تھا جس نے رجسٹر مدرسین میں چھٹی لگائی تھی اسی دن ڈی
ای او صاحب بونیر نے ہمارے سکول کا وزٹ کیا اور میری رخصت اتفاقیہ کو غیر
حاضری میں تبدیل کیا۔ میں نے اس سال کل 7 رخصت اتفاقیہ لئے ہیں اور اس مہینے
یہ میری پہلی چھٹی تھی۔

میں اپنی ڈیوٹی ایمانداری سے سرانجام دے رہا ہوں اور سکول اوقات کار کا
پابند ہوں۔ میرا سکول ضلع بونیر کے بہترین سکولوں میں سے ایک ہے اور پی ٹی
سی کی باقاعدہ میٹنگز اور دیگر آفس ورک بروقت انجام دیتا ہوں اس سے پہلے مجھے
کسی قسم کا شوکاز نوٹس وغیرہ دیا گیا ہے نہ میں نے کوئی ایسی کوتاہی کی ہے جس
کا مجھے اتنا بڑا سزا دیا گیا ہے۔

جناب عالی اڈی ای او صاحب بونیر نے 22 نومبر کو صبح سکول وزٹ کیا
میری رخصت اتفاقیہ کو غیر حاضری میں تبدیل کیا اور بطور سزا میرا تبادلہ دور
افتادہ سکول جی پی ایس تورا پٹہ سب ڈویژن چغری ضلع بونیر کو بموجب آرڈر نمبر
5815-20 مورخہ 22.11.22 کو عمل میں لایا گیا۔

جناب عالی! میں ایک فرض شناس مدرس ہوں اور اپنی فرائض ایمانداری سے سرانجام
دے رہا ہوں۔

لہذا استدعا ہے کہ مجھے انصاف فراہم کیا جائے اور میرا تبادلہ منسوخ کیا
جائے

دعا گو رہوں گا۔

Wah

فقط

وکیل خان پی ایس ایچ ٹی

جی پی ایس ریگا نمبر 1 سب ڈویژن گاکرہ

HEAD MASTER

GPS. No. 1

Regd Distt BURE

مورخہ : 23.11.22



ADDE (M)
Inquiry through
competent
officer.

DEO (M) Buner

20/11/22

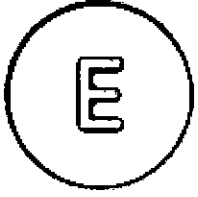
20/11/22

Inbox

Annex 'E'

P-10

92



Employee Servi... 31/12/2022

to me v



00274947

WAKIL KHAN

BD6231

| | |
|------------------|---|
| Action Performed | |
| | LEAVING ACTION PERFORMED (SALARY STOPPED) with effect from 01.12.2022 |
| Office Details | |
| | DESIGNATION CHANGED to 99999999 - SENIOR PHYSICAL EDUCATION TEACHER |

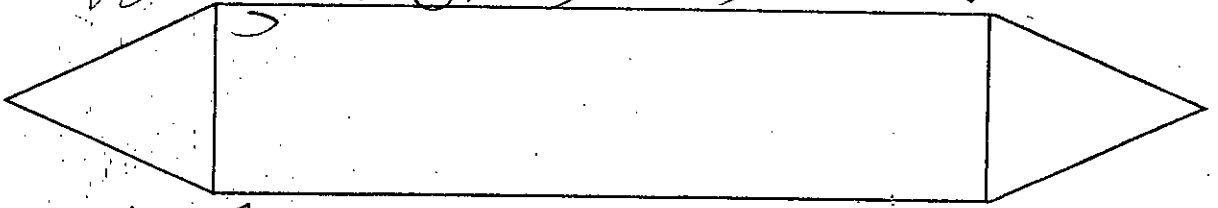
یہ ای میل خودکار نظام کے تحت بھیجی جا رہی ہے جس کا مقصد

ڈی ٹی او کو ملازمین کی

پائی جا رہی ہے۔

Charge taken Transfered from GPS Board
in Regn 11-2-2017

بعدالت سروس ٹریڈ سونل K.P. سہانہ



مورخہ 29 مارچ 2023ء مخائب وکیل کے نام سے
 مقدمہ حاکم خان بنام K.P. سہانہ
 دعویٰ سروس ٹریڈ
 جرم

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دیکھ
 کارروائی متعلقہ آن مقام کے سربراہ نے محترم خان کے وکیل کے نام سے
 مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
 وکیل صاحب کو کرنے راضی نامہ و تقرر ثالث و فیصلہ بر حلف دیے جواب دہی اور اقبال دعویٰ اور
 بصورت ڈگری کرنے اجراء اور وصولی چیک نہ روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
 زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمد اور
 منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ اور بصورت ضرورت
 مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے
 تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور
 اس کا ساختہ پداختہ منظور و قبول ہوگا۔ دوزان مقدمہ میں میں جو خرچہ و ہرجانہ التوائے مقدمہ کے
 سبب سے ہوگا۔ اس کے مستحق وکیل صاحب موصوف ہوں گے۔ نیز بقایا و خرچہ کی وصولی کرنے کا
 بھی اختیار ہوگا۔ اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہے تو وکیل صاحب پابند نہ ہوں
 گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھد یا کہ سندر ہے۔

المرقوم 29 مارچ 2023ء

العبد گواہ نشد العبد

مقام
 K.P. سہانہ کے لئے منظور ہے۔
 Accepted
 Advocate High Court
 Peswar of Dist Courts Deggur