

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
	<p>02.03.2016</p> <p style="font-size: 2em; font-family: cursive;">A.L.</p>	<p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,</u> <u>PESHAWAR.</u></p> <p style="text-align: center;">APPEAL NO.1289/2015</p> <p style="text-align: center;">(Ms. Nadia -vs- Govt: of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar and others).</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>ABDUL LATIF, MEMBER:</u></p> <p style="text-align: center;">Counsel for the appellant (Mr. Sajid Amin, Advocate) and Mr. Ziaullah, GP for respondents present.</p> <p>2. The instant appeal has been filed by the appellant under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act-1974 against the order dated 01.07.2015, whereby the appellant has been transferred from the post of Sub Divisional Educational Officer (Female), Charsadda to the post of SDEO, (Female) Dargai Malakand, against which the departmental appeal dated 10.07.2015 of the appellant has not been responded. He prayed that on acceptance of this appeal the order dated 01.07.2015, may please be set aside and the appellant may please be allowed to perform her duties as Sub-Divisional Educational (Female) Charsadda.</p> <p>3. Brief facts giving rise to the instant appeal are that appellant was posted as Sub-Divisional Educations Officer (Female),</p>

	<p style="text-align: center;">A.F.I.</p>	<p>Charsadda, vide order dated 07.01.2014, appellant took over the charge of her post. That while serving in the said capacity, a local MPA, Muhammad Arif Ahmad Zai pressurized the appellant for appointment of Chowkidar at GGPS Kangra, but when the appellant refused to obey his directions, he abused the appellant and started threatening the appellant for dire consequences. The appellant duly brought the said incident in the notice of the superior officers and also filed a complaint dated 20.05.2015 against the inhuman behavior of the MPA. Accordingly an inquiry officer was nominated to conduct inquiry vide letter dated 29.06.2015. That the local MPA of PK-22, being influential, was pressurizing the respondents for transferring out the appellant from Charsadda, therefore instead of providing protection to the appellant against the political victimization through the hands of local MPA, the appellant was transferred from the post of SDEO, (F) Charsadda to the post of SDEO (F) Dargai Malakand vide order dated 01.07.2015. That against the impugned transfer order dated 01.07.2015, the appellant preferred departmental appeal dated 10.07.2015 which was not responded, hence the present service appeal.</p> <p>4. The learned counsel for the appellant argued that the appellant was posted as Sub-Divisional Educational Officer (F) Charsadda on 07.01.2014 and was transferred from the said station vide impugned order dated 01.07.2015 to Dargai Malakand Agency and contended that the transfer order was pre-mature and a result of political inference/victimization. He further argued that MPA concerned of the area wanted to get appointed one of his blue eyed person as Chowkidar in GGPS Kangra which the appellant resisted because the</p>
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post was filled since 2005. He further argued that enquiry was instituted on 29.06.2015 to probe into the incident of maltreatment of the appellant by the Local MPA, Muhammad Arif Ahmad Zai but before coming of the report of the enquiry she was transferred out from the post on 01.07.2015. He further argued that victimization of the appellant at the hands of the MPA continued as the latter took up issue of misuse of funds by the appellant at the forum of Standing Committee No.26 of the Provincial Assembly on Education and added that an enquiry on direction of the said Standing Committee was conducted by Mr. Azam Khan, Deputy Secretary (E&SE) where no charge of misuse or misappropriation of funds could be proved against the appellant. He further contended that transfer order of the appellant was neither in the public interest nor in the exigencies of public service and charge of the said post assigned to a junior official (BPS-16) which was also in violation of the rules/policy of the Government. He prayed that on acceptance of this appeal the appellant may be restored to her original place of posting where she may be allowed to complete her tenure. He relied on PLD 2013 Supreme Court 195, PLD 1995 Supreme Court 530 and 2005 SCMR 17.

5. The learned Government Pleader resisted the appeal and argued that the appellant belonged to management cadre and was liable to serve any where under Sec-10 of the Civil Servant Act, 1973. He further argued that no political interference was there in the instant case as such interference could not be substantiated through documentary evidence and further added that the appellant had almost completed her tenure in the previous station. He further

7  
A.F.L.

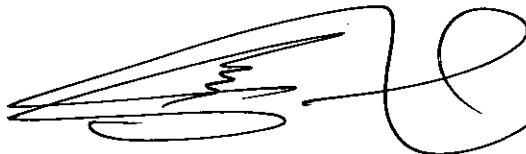
argued that charge of the post of SDEO (F) Charsadda had since been assigned to Ms. Shaista, ASDEO of the said office and that the appeal being devoid of any merits may be dismissed.

6. Arguments of learned counsels for the parties heard and record perused with their assistance.

7. From personal of the record and after listening to the counsels for the parties, it transpired that the appellant was posted as SDEO(F) Charsadda on 07.01.2014 where-from she was transferred to Dargai, Malakand Agency vide impugned order dated 01.07.2015. It was further revealed from the record that an enquiry was initiated by the Secretary Elementary & Secondary Education Department vide notification dated 29.06.2015 to probe into the complaint of the appellant on the alleged maltreatment by Mr. Muhammad Arif Ahmad Zai, MPA PK-22 but before coming into fore of the report of the said enquiry she was transferred and posted as SDEO(F) Dargai Malakand Agency vide impugned order dated 01.07.2015. The matter however did not end there and complaints of misappropriation of funds against the appellant were agitated at the forum of Standing Committee No.26 of Provincial Assembly on Education by the said MPA who headed the said committee and on whose direction an enquiry against the appellant was initiated and conducted through Mr. Azam Khan, Deputy Secretary Elementary & Secondary Education Department. A report of the said enquiry was produced and read during the arguments which revealed that charges leveled against the appellant could not be proved. In the circumstances, the Tribunal is of the considered view that the appellant was transferred

AF-1

out from the post of SDEO (F) Charsadda prematurely and on political pressure of the sitting local MPA and therefore in the interest of justice and good governance, we deem it appropriate to interfere in the case by setting aside the impugned order dated 01.07.2015. As a consequence the appellant is restored to her original place of duty i.e SDEO (F) Charsadda where she will be allowed to complete her normal tenure where-after competent authority will be at liberty to post her at appropriate place and station according to the rules/policy in the public interest. The appeal is decided in the above terms. Parties are left to bear their own cost. File be consigned to the record room.



(PIR BAKHSH SHAH)  
MEMBER



(ABDUL LATIF)  
MEMBER

ANNOUNCED  
02.03.2016

28.1.2016

Appellant with counsel and Mr. Khurshid Khan, SO alongwith Assistant AG for respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 2.3.2016. The restraint order shall continue.

  
Chairman



25.11.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as SDEO (F) Charsadda where she was appointed as such vide order dated 7.1.2014. That vide impugned order dated 1.7.2015 she was transferred from the said post to that of SDEO (F) Dargai, Malakand where against she preferred departmental appeal on 10.7.2015 which was not responded and hence the instant service appeal on 18.11.2015.

That the impugned transfer order is premature and politically motivated as the appellant lodged a complaint against a local MPA for undue interference in her duty which was probed to the satisfaction of the high-ups but ultimately the appellant made scapegoat. That the post of SDEO (F) Charsadda is still vacant and no officer has been appointed against the same and additional charge is assigned to one of the junior officers.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 24.12.2015 before S.B. Notice of stay application be also issued for the date fixed. Till then the post of SDEO (F) Charsadda shall not be filled in.

  
Chairman

24.12.2015

Since 24.12.2015 has been declared as Public Holiday therefore, the case is adjourned to for the same 28.1.2016.

  
Reader

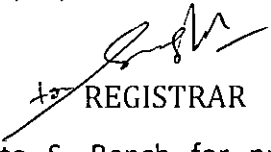

Appellant Deposited  
Security & Process Fee



Form- A  
FORM OF ORDER SHEET

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

Case No. 1289/2015


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	18.11.2015	<p>The appeal of Ms. Nadia resubmitted today by Mr. Sajid-Amin Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>25-11-15</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

The appeal of Ms. Nadia SDEO Female Charsadda received to-day i.e. on 10.11.2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Appeal may be got signed by the appellant.
- 2- Affidavit may be attested by the Oath Commissioner.
- 3- Annexures of the appeal may be attested.
- 4- Copies of order dated 04.01.2014 and transfer policy mentioned in the memo of appeal are not attached with the appeal which may be placed on it.
- 5- Five more copies/sets of the appeal along with annexures i.e. complete all respect may also be submitted with the appeal.

No. 1760 /S.T,

Dt. 11/11 /2015

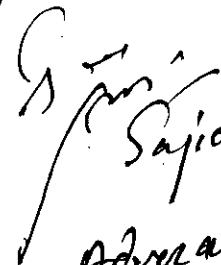
  
REGISTRAR -  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Ijaz Anwar Adv. Pesh.

Dear Sir,

- 1- The appeal has been signed by the appellant.
- 2- Affidavit has been signed/attested by the Oath Commissioner.
- 3- Annexures of appeal are attested.
- 4- Transfer and Posting Policy and the order dated 04/01/2014 as referred in objection by above has been attached.
- 5- Five spare copies complete from all respect are also attached with appeal.

All objections are removed accordingly and appeal is hereby re-submitted after completion.

  
Sajid Amir  
Advocate, Peshawar.

13/11/2015

**BEFORE THE KHYBER PAKHTUNKWA  
SERVICE TRIBUNAL PESHAWAR**

Appeal No. 1289 /2015

Ms. Nadia, Sub-Divisional Education Officer (Female) (BPS-17),  
Charsadda presently under transfer to Dargai, Malakand.

(Appellant)

**VERSUS**

Govt. of Khyber Pakhtunkhwa through Chief Secretary, Khyber  
Pakhtunkhwa, Peshawar and others.

(Respondents)

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3.	Copy of complaint dated 20.05.2015 and order dated 29.06.2015.	B & C	9- 10
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Appellant

Through

  
**IJAZ ANWAR**  
Advocate, Peshawar

&

  
**SAJID AMIN**  
Advocate, Peshawar

**BEFORE THE KHYBER PAKHTUNKWA  
SERVICE TRIBUNAL PESHAWAR**

K.P. Province  
Service Tribunal

Diary No. 1342

Dated 10-11-2015

Appeal No. 1289 /2015

*Ms. Nadia*, Sub-Divisional Education Officer (Female) (BPS-17),  
Charsadda presently under transfer to Dargai, Malakand.

(Appellant)

**VERSUS**

1. Govt. of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. The Secretary to the Government, Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
3. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.

(Respondents)

Appeal Under Section-4 of Khyber Pakhtunkhwa Service Tribunal Act, against the order dated 01.07.2015, whereby the appellant has been transferred from the Post of Sub Divisional Educational Officer (Female), Charsadda to the Post of SDEO, Female, Dargai Malakand, against which the departmental appeal dated 10.07.2015 of the appellant has not been respondent despite the lapse of 90 days statutory period.

Prayer in Appeal;

On acceptance of this appeal the order dated 01.07.2015, may please be set aside and the appellant may please be allowed to perform her duties as Sub-Divisional Educational Officer, (Female), Charsadda.

Respectfully Submitted:

Filed to the

*[Signature]*  
Registrar

10/11/15

and filed.

*[Signature]*  
Registrar

1. That the appellant is serving in the Respondents department as Sub Divisional Educational Officer BPS-17. Ever since her appointment the appellant is performing her duties as assigned with zeal and devotion and without giving any chance regarding her performance.

2. That it is pertinent to mention here that the appellant remained posted at different stations as and when directed posted.
3. That the appellant was lastly posted as Sub Divisional Education Officer (BPS 17), Charsadda, vide order dated 07.01.2015, the appellant duly took over charge of her post and started performing her duties. *(Copy of the order dated 07.01.2014, is attached as Annexure A)*
4. That while serving in the said capacity, a local MPA, Muhammad Arif Ahmad Zai pressurized the appellant for appointment of Chowkidar at GGPS Kangra, but when the appellant refused to obey his directions, he abused the appellant and started threatening the appellant for dire consequences. The appellant duly brought the said incident in the notice of the superior officers and also filed a complaint dated 20.05.2015 against the inhuman behavior of the MPA. Accordingly an Inquiry officer was nominated to conduct inquiry vide letter dated 29.06.2015, however the matter was kept in mum later on. *(Copy of complaint dated 20.05.2015 and order dated 29.06.2015 are attached as annexure B and C).*
5. That the local MPA of PK-22, being influential, was pressurizing the Respondents for transferring out the appellant from Charsadda, therefore instead of providing protection to the appellant against the political victimization through the hands of local MPA, the appellant was transferred from the Post of Sub Divisional Educational Officer (Female), Charsadda to the Post of S.D.E.O. Female, Dargai Malakand order dated 01.07.2015. *(Copy of the transfer Order dated 01.07.2015 is attached as Annexure D).*
6. That against the Transfer order dated 01.07.2015, the Appellant submitted her departmental appeal dated 10.07.2015, however it was not responded within the stipulated period of 90 days, hence the instant appeal. *(Copy of Departmental appeal is attached as Annexure E)*
7. That the impugned order is illegal, unlawful, without lawful authority against law and facts, politically motivated, and against the transfer and posting policy hence liable to be set aside inter alia on the following grounds:

**GROUND OF SERVICE APPEAL:**

- A. That the appellant has not been treated in accordance with law her rights secured and guaranteed under the law are badly violated.
- B. That the impugned transfer orders are illegal, unlawful, void ab-initio, without lawful authority, hence liable to be set aside.
- C. That the appellant has not been allowed to complete her tenure and thus the order impugned is violation of transfer posting policy of the Govt and the judgment of the apex court reported in PLD 1995 SC Page No 530 and PLD 2013 Supreme Court Page No 195. *(Copy of the Transfer and posting policy is attached as Annexure F).*
- D. That the appellant was transferred from Charsadda to the Remote and far flung area of Dargae Malakand, despite the fact that the Appellant is an unmarried female, which by it self is against the transfer/ posting policy.
- E. That the recently the august Supreme Court of Pakistan has in its Judgment reported in 2013 PLD SC 195, decided a point of law and while committing upon the transfer and posting and other related matters of service held as under:-

- (i) **Appointments, Removals and Promotions:-**  
Appointments, removals and promotions must be made in accordance with the law and the rules made there under; where no such law or rule exists and the matter has been left to discretion, such discretion must be exercised in a structured, transparent and reasonable manner and in the public interest.
- (ii) **Tenure, posting and transfer:** When the ordinary tenure for a posting has been specified in the law or rules made there under; such tenure must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable.
- (iii) **Illegal Orders:** Civil servants owe their first and foremost allegiance to the law and the Constitution. They are not bound to obey orders from superiors which are illegal or are not in accordance with accepted practices and rule, based norms; instead, in such situations, they must record their opinion and; if necessary, dissent.

- (iv) O.S.D Officers should not be posted as OSD except for compelling reasons, which must be recorded in writing and are judicially reviewable. If at all an Officer is to be posted as OSD, such posting should be for the minimum period possible and if there is a disciplinary inquiry going on against him, such inquiry must be completed as the earliest.

Relying upon the Judgment of the Supreme Court of Pakistan the Respondents are duty bound to have follow the law, judgment of the superior courts, and posting and transfer should not have been influenced in any manner whatsoever, however, in the instant case the appellant was made to suffer only on the direction of the local MPA, since the appellant did not obey his directions, therefore due to personal grudges he pressurized the respondents for her transfer.

- F. That during the posting of the appellant as S.D.E.O. (Female) at District Charsadda, her performance remained commendable and there was no complaint whatsoever regarding her performance, albeit she has been transferred from the post.
- G. That in fact there exist no exigencies of service nor the order of transfer can be termed as in the public interest, rather it was issued due to the political pressure of the local MPA, since the appellant did not honour his demands to appoint his blue eyed/ political favorites as Chowkidar, therefore he became personal and used his political influence to transfer her out from Charsadda , the impugned transfer Order is thus politically motivated and is liable to be struck on this score alone, as it is based on political victimization and in violation of law and transfer / posting policy of the Provincial Govt.
- H. That the local MPA has got no power to issue directions regarding the posting and transfer of officials, obeying such directions also amount to misconduct under the Govt. Servants Conduct Rules, 1987, thus the transfer order is liable to be set aside on this score alone.
- I. That the impugned transfer order is illegal, unlawful, without lawful authority and passed without jurisdiction, not in the prescribed period, in violation of transfer and posting policy.
- J. That the Respondent without carrying of law issued transfer order and thus has made the appellant a rolling stone.

K. That the appellant seeks permission of this Honourable Tribunal to rely on additional grounds at the time of hearing of appeal.

*It is therefore humbly prayed that, on acceptance of this appeal the order dated 01.07.2015, and order dated 07.07.2015, may please be set aside and the appellant may please be allowed to perform her duties as Sub-Divisional Educational Officer, (Female), at Charsadda. Or any other remedy being Just and proper under the circumstances of Case.*

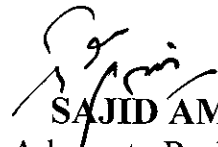
*Ans,*  
**Appellant**

Through



**IJAZ ANWAR**  
Advocate, Peshawar.

&



**SAJID AMIN**  
Advocate Peshawar.



**BEFORE THE KHYBER PAKHTUNKWA  
SERVICE TRIBUNAL PESHAWAR**

Appeal No. \_\_\_\_\_/2015

Ms. Nadia, Sub-Divisional Education Officer (Female) (BPS-17),  
Charsadda presently under transfer to Dargai, Malakand.

**(Appellant)**

**VERSUS**

Govt. of Khyber Pakhtunkhwa through Chief Secretary, Khyber  
Pakhtunkhwa, Peshawar and others.

**(Respondents)**

**Application for the suspension of the transfer  
order Dated 01.07.2015, till the decision of the  
above noted Appeal**

**Respectfully Submitted:**



1. That the appellant has filed today the above noted appeal in this Honourable Tribunal in which no date of hearing has been fixed so far.
2. That the facts and ground mentioned in the accompanied appeal may be read as integral part of this application.
3. That the applicant has got a good prima facie case and there is likelihood of it success.
4. That the applicant would be exposed to great hard ship and inconvenience in case the order is not suspended.
5. That as the impugned transfer order is politically motivated and based on political victimization, hence untenable.
6. That the order passed is in violation of law and posting and transfer policy.

7. That it will also serve the interest of justice if the order impugned is suspended till the final decision of the appeal.

It is, therefore, prayed that on acceptance of this application the operation of the impugned transfer order dated 01.07.2015, may please be suspended till the decision of the appeal.

  
Applicant

Through

  
IJAZ ANWAR  
Advocate, Peshawar  
&  
  
SAJID AMIN  
Advocate, Peshawar

### AFFIDAVIT

I, *Ms. Nadia, Sub-Divisional Education Officer (Female) (BPS-17), Charsadda presently under transfer to Dargai, Malakand*, do hereby solemnly affirm and declare on oath that the contents of the above Appeal as well as application are true and correct to best of my knowledge and believe and that nothing has been kept back or concealed from this Honourable Tribunal.



  
Deponent



8  
Arrears "A"

**GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION  
DEPARTMENT**

Dated Peshawar January 7, 2014

**NOTIFICATION**

**NO.SO(S/F)E&SE/4-16/2013/Aqeela Naz & Nadia:** The following posting / transfer of SDEOs (F) are hereby ordered in the interest of public service with immediate effect:-

S.#	Name & Designation	From	To
1.	Ms. Aqeela Naz SDEO (F) (BS-17) (Teaching Cadre)	Charsadda	As Headmistress (BS-17) GGHS Shahpasand Kallay, Charsadda, against vacant post.
2.	Ms. Nadia SDEO (F) (BS-17) (Management Cadre)	Lahore, Swabi	As SDEO (F) (BS-17) Charsadda Vice s.no.1

2. No TA / DA allowed.

**SECRETARY**

Ends of even No & date

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director, E&SE, Peshawar.
3. District Education Officer (F) Charsadda & Swabi.
4. District Account Officer Charsadda & Swabi.
5. Incharge EMIS, E&SE Department.
6. PS to Minister E&SE Khyber Pakhtunkhwa, Peshawar.
7. P.S to Secretary E&SE Department.
8. Officer concerned.
9. Office order file.

*(Signature)*  
(FOZIA NAZ)  
SECTION OFFICER (S/F)

*(Signature)*

*etc*

*(Handwritten)*  
7/1/14



9

ANNEXURE B

OFFICE OF THE SUB DIVISIONAL EDUCATION OFFICER  
(FEMALE) CHARSADDA.

NO. 363 /DATED/ 20 / 05 /2015.

To

The Secretary,  
E&SED Khyber Pakhtunkhwa  
Peshawar.

**SUBJECT:- COMPLAINT AGAINST MR MUHAMMAD ARIF AHMAD ZAI MPA PK-22**  
Memo

With humble submission, I beg to submit that today on 20-05-2015 at 02:26 Mr Muhammad Arif Ahmad Zai MPA Pk-22 came to my office and demanded for appointment of Chowkidar at GGPS Kangra ,which is not of my competency as one Chowkidar named Jamal shah has been already appointed in the said school, in 2005 and performed his duty in the said school.

The undersigned discussed all the issues with good manner , but the MPA did not agreed and threatened the undersigned that she will be no remain in District Charsadda and also used abused language with the undersigned which is not suite to a public representative.

SUB DIVISIONAL EDUCATION OFFICER  
(FEMALE) CHARSADDA.

Endst No. 364-67 /-

Copy for information to the:

1. Director E&SE Khyber Pakhtunkhwa Peshawar.
2. Deputy Commissioner Charsadda, with the request to approach the DPO Charsadda for lodging FIR against the above mentioned MPA PK 22 Please.
3. District Education Officer Female Charsadda.
4. Office File

SUB DIVISIONAL EDUCATION OFFICER  
(FEMALE) CHARSADDA.

REGISTERED



GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION  
DEPARTMENT

ANNEXURE: C

Dated Peshawar the June 29, 2015.

NOTIFICATION

No.SO(S/F)E&SED/4-17/2015/SDEO (F): Mr. Shahid Sohail Deputy Secretary-I, E&SE Department is hereby appointed as inquiry officer to conduct inquiry into the of complaint, submitted by SDEO (F) Charsadda against Mr. Muhammad Arif Ahmad Zai MPA PK-22 (copy enclosed).

2. The Inquiry Officer shall submit its report/recommendations within three (03) weeks to the Competent Authority.

SECRETARY

Endst.of even No & date

Copy to:-

1. Mr. Shahid Sohail Deputy Secretary-I, E&SE Department.
2. Director, E&SE Peshawar.
3. District Education Officer (F) Charsadda.
4. SDEO (F) Charsadda.
5. PS to Secretary E&SE Department.

*[Signature]*  
SECTION OFFICER (S/F)

③ 20/6/15

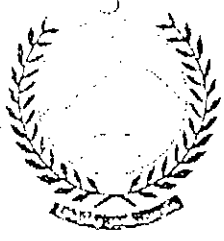
20/6/15

olc

*[Signature]*

(11)

ANNEXURE: 8D



GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION  
DEPARTMENT

ADDE  
10/7/15  
MS

Dated Peshawar the, July 1<sup>st</sup>, 2015.

NOTIFICATION

NO.SO(S/F)E&SE/4-16/2015/Nadia SDEO (F): Ms. Nadia Sub-Divisional Education Officer (Female) (BS-17) Charsadda is hereby transferred and posted as Sub-Divisional Education Officer (Female) (BS-17) Dargai, Malakand against the vacant post with immediate effect.

SECRETARY

Endst. of even No & date

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director, E&SE, Peshawar.
3. District Education Officer- (F) Charsadda & Malakand.
4. District Accounts Officer Charsadda & Malakand.
5. Incharge EMIS, E&SE Department.
6. PS to Minister E&SE Khyber Pakhtunkhwa.
7. PS to Secretary E&SE Department.
8. Officer concerned.
9. Office order file.

SECTION OFFICER (S/F)

O. A. to Director E & SE  
Khyber Pakhtunkhwa Peshawar  
No ..... 2/3  
Date .....

ATC

12

~~Amir~~ 18/02

**DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION KHYBER  
PAKHTUNKHWA, PESHAWAR.**

**NOTIFICATION.**

Mst. Shaista ASDEO (F) B-16 Charsadda is hereby assigned the charge of the post of SDEO (F) Charsadda in addition to her own duty in the interest of public service with effect from the date of her taking over charge till further order.

- Note: -
1. Charge report should be submitted to all concerned.
  2. No TA/DA etc are allowed.
  3. She will not claim any kind of seniority, Additional charge allowance etc.

**DIRECTOR  
ELEMENTARY & SECY; EDUCATION  
KHYBER PAKHTUNKHWA**

Endst: No. 2431-83 F.No.A-12/Transfer/Vol-13

Dated Pesh: the 7/7 /2015

Copy of the above is to the:-

1. District Education Officer (F) Charsadda.
2. District Accounts Officer Charsadda.
3. SDEO (F) Charsadda.
4. ASDEO (F) concerned.
5. PA to Director (E&SE) Khyber Pakhtunkhwa, Peshawar.
6. M/File.

*dy*  
*7/7/15*  
Deputy Director (Female)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa, Peshawar  
*an*

*NTC*  
*SPD*

**ANNEXURE: E**

E. A. to Director B & C  
Khyber Pakhtunkhwa Peshawar.  
D. No. 408  
Date 17/11/15  
ADD(CE)

To

(13)

Chief Secretary,  
Khyber Pakhtunkhwa,  
Peshawar.

Through:- **PROPER CHANNEL**

**DEPARTMENTAL APPEAL:-**

Against the illegal Transfer order/Notification dated 01/07/2015 No.SO(S/F) E&SED/4-16/2015 Nadia/SDEO(F), thereby the applicant has been transferred /posted from SDEO(F)Charsadda to SDEO(F)Dargai Malakand, unlawfully, against the all harms of natural justice, against the posting/Transfer policy in vogue, all laws, rules on the subject, premature one and under the political pressure of M.P.A PK-22 and in violation of my Constitutional guaranteed basic rights.

Respected Sir,

It is most humbly entreated as under:-

1. That the appellant was appointed as S.D.E.O.(Female) District Charsadda on appended as **Annexure "A"**
2. That the appellant has unblemished service record at her credit and performed her duties with the entire satisfaction of the high ups and honestly.
3. That the M.P.A PK-22 namely Muhammad Arif Ahmad Zai, comes to my office and demanded for appointment of Chowkidar at G.G.P.S Kangra. The appellant discussed the issue with good and wise manner with said M.P.A but the M.P.A using abused language for the appellant threatened the transfer of the appellant. The appellant brought the mentioned event in to the notice of Secretary, (E&SE) Khyber Pakhtunkhwa, as well Director E&SE (**Annex-B**)
4. That the worthy Secretary appointed an enquiry officer to conduct inquiry in connection with the said complaint vide Notification dated 29/06/2015 **Annexure "C"**.
5. That on the other day i.e. 01/07/2015 the appellant being unmarried women is transferred to a remote area Dargai Malakand **Annexure "D"**.
6. That the above mentioned transfer order of the appellant is based on political victimization for ulterior Motives, under the pressure and interference of M.P.A Pk-22 in violation of posting/transfer policy in vogue.

ATC  
H



- 7. That the appellant is un-married woman and residing in village Chamkani District Peshawar with ill and old father. The appellant is only daughter of her father to look after him. The appellant used to come back to home daily after performing official duties at S.D.E.O. (F) Office Charsadda which due to the impugned transfer order the appellant will be unable to keep contact with her weak and ill father. And the same is the violation of policy on the subject, in vogue.
- 8. The appellant has not completed the tenure at the present station, hence, the said transfer is against the transfer/posting rules, laws and policy.
- 9. The appellant was treated unjustly, unlawfully against the policy, norms of natural justice, verdicts of the courts, in violation of the Constitution of Pakistan and in violation of all rules for protection and safety of working women.
- 10. That the M.P.A Pk-22 put the appellant into trouble and harassed the appellant while the department transfer me in violation of all rules, Law, Policies on the subject in vogue, for ulterior motives, against all rights of the appellant contained and guaranteed in the Constitution.

In view of the above submissions, it is requested earnestly that being competent appellate authority be very graciously be pleased to cancel the impugned transfer order dated 01/07/2015 any other order as your good self deems and fit in the present circumstances of the case.

Thanks.

(NADIA CHAMKANI)  
SUB DIVISIONAL EDUCATION OFFICER.  
MALAKAND.

Copy forwarded to the:-

Copy forwarded to the:-

- 1. Secretary, Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
- 2. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.

*Ntc*  
*[Signature]*

*[Signature]*

(NADIA CHAMKANI)  
SUB DIVISIONAL EDUCATION OFFICER.  
MALAKAND.

*Liaqat Ali  
Supalli  
Mardan*

*ANNEX F 16*



**GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(REGULATION WING)**

**POSTING/TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT**

- i) All the posting/transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants
- ii) All Government servants are prohibited to exert political, Administrative or any other pressures upon the posting/transfer authorities for seeking posing/transfers of their choice and against the public interest.
- iii) All contract Government employees appointed against specific posts, can not be posted against any other post.
- iv) <sup>1</sup>Existing tenure of posting/transfer of three (03) years for settled areas and two (02) years for unattractive/hard areas shall be reduced to two (02) years for settled areas,  $01\frac{1}{2}$  years for unattractive areas and one year for hard areas. *(See Po as retained 2 years tenure retained vide P-06 for un-attractive/hard area)*
- v) <sup>2</sup>{ }
- (vi) <sup>3</sup>"While making posting/transfers of officers/officials up to BS-17 from settled areas to FATA and vice versa approval of the Chief Secretary, Khyber PakhtunKhwa needs to be obtained. **Save Tehsildars/Naib Tehsildars within a division in respect of whom the concerned Commissioner will exercise the same power.** Whereas, in case of posting/transfer of officers in BS-18 and above, from settled areas to FATA and vice versa, specific approval of the Governor, Khyber PakhtunKhwa shall be obtained."

**Provided that the power to transfer Political Tehsildars and Political Naib Tehsildars within FATA between different divisions shall rest in Additional Chief Secretary FATA.**

- vi (a)<sup>1</sup> All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for atleast eighteen months in each grade. This should start from senior most scales/grades downwards in each scale/grade of each cadre.
- vii) Officers may be posted on executive/administrative posts in the Districts of their domicile except District Coordination Officers (D.C.Os) and DPOs/Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where the Police Station (Thaana) of his area/residence is situated.

<sup>1</sup> Circular letter No. SOR-VI/E&AD/I-4/2008/Vol-VII dated, the 11<sup>th</sup> September, 2009

<sup>2</sup> Para-1(v) regarding months of March and July for posting/transfer and authorities for relaxation of ban deleted vide letter No. SOR-VI (E&AD) I-4/2008/Vol-VI, dated 3-6-2008. Consequently authorities competent under the Khyber PakhtunKhwa Government Rules of Business, 1985, District Government Rules of Business 2001, Posting/Transfer Policy and other rules for the time being in force, allowed to make Posting/Transfer subject to observance of the policy and rules.

<sup>3</sup> Para-VI added vide circular letter No. SOR-VI/E&AD/I-4/2010/Vol-VIII dated 20<sup>th</sup> March, 2010.

<sup>4</sup> Sub para-VI (a) added vide circular letter No. SOR-VI/E&AD/I-4/2008 dated 22<sup>nd</sup> October, 2008.

*Alisa*

- viii) No posting/transfers of the officer's/officials on detailment basis shall be made.
- ix) Regarding the posting of husband/wife, both in Provincial services, efforts where possible would be made to post such persons at one station subject to the public interest.
- x) All the posting/transferring authorities may facilitate the posting/transfer of the unmarried female government Servants at the station of the residence of their parents.
- xi) Officers/officials except DCOs and DPOs/SPs who are due to retire within one year may be posted on their option on posts in the Districts of their domicile and be allowed to serve there till the retirement

**<sup>1</sup>DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales;**

- xii) In terms of Rule-17(1) and (2) read with Schedule-III of the Khyber PakhtunKhwā Government Rules of Business 1985, transfer of officers shown in column 1 of the following table shall be made by the authorities shown against each officer in column2 thereof:

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

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

*Alleged*

b) To and from an Attached Department	Secretary of the Department in consultation with Head of Attached Department concerned.
c) Within the Secretariat from one Department to another	Secretary (Establishment)

xiii) While considering posting/transfer proposals all the concerned authorities shall keep in mind the following:

a) To ensure the posting of proper persons on proper posts, the Performance Evaluation Report/annual confidential reports, past and present record of service, performance on post held presently and in the past and general reputation with focus on the integrity of the concerned officers/officials be considered.

b) ✓ Tenure on present post shall also be taken into consideration and the posting/transfers shall be in the best public interest.

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

i) ✓ Pre-mature posing/transfer or posting transfer in violation of the provisions of this policy.

ii) Serious and grave personal (humanitarian) grounds.

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

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

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

a) Transfer the holder of a tenure post before the completion of his tenure or extend the period of his tenure.

b) Require an officer to hold charge of more than one post for a period exceeding two months.

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

\*\*\*\*\*

*(Handwritten signature)*

Updated up to April, 2010.

6 (19)

✓ All concerned are requested to ensure that tenures of the concerned officers/officials are invariably mentioned in summaries submitted to the Competent Authorities for Posting/Transfer.

{Authority: Letter No: SOR-VI/E&AD/1-4/2003 dated 24-6-2003.

\*\*\*\*\*

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

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

SPECIMEN NOTIFICATION.

**GOVERNMENT OF KHYBER PAKHTUNKHWA**  
NAME OF ADMINISTRATIVE  
DEPARTMENT

Dated Peshawar, \_\_\_\_\_

NOTIFICATION

NO. The Competent Authority is pleased to order the transfer of Mr. \_\_\_\_\_, \_\_\_\_\_ Department and to post him as \_\_\_\_\_ in the interest of public service, with immediate effect.

**CHIEF SECRETARY**  
**GOVERNMENT OF KHYBER PAKHTUNKHWA**

Endst. No. and date even.

Copy forwarded

- 1.
- 2.
- 3.
- 4.

(NAME)  
SECTION OFFICER  
Administrative Department

{Authority: Letter No. SO (E-I) E&AD/9-12/2006 dated 22-12-2006}.

The competent authority has been pleased to direct that Para 1(v) of the Posting/Transfer Policy contained in this Department letter No:SOR-I (E&AD) 1-1/85 Vol-II, dated 15-2-2003 shall stand deleted, with immediate effect, consequently allowing the authorities, competent under the Khyber Pakhtunkhwa Government Rules of Business, 1985 and the District Government Rules of Business, 2001 or any other rules for the time being in force, to make posting/transfers of Government servants, any time during the year, in genuinely deserving and necessary cases, in public interest,

Adesha

(LB)

subject to strict observance of all other provisions of posting/transfer policy contained and notified vide circular letter under reference. Hence there will be no ban on posting/transfer of Government Servants in any part of the year while carrying out postings/transfers of Government Servants.

✓ The authorities concerned will ensure that no injustice whatsoever is caused to any civil servant, public work is not suffered and service delivery is improved.

✓ I am therefore directed to request that the provisions of posting/transfer policy, as amended to the extent above, may kindly be followed in letter and spirit in future so as to keep good governance standard in this regard.

{Authority: Letter No: SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-6-2008.

\*\*\*\*\*

According to the policy of the provincial Government, maximum tenure on a post is three years. Contrary to the Policy, Store Keepers, Cashiers, Accountants and other ministerial staff remains posted in their particular field for long time, which may result in misuse of this position, due to which not only public exchequer may sustain loss but general public also suffers. The Provincial Government has taken serious notice of this situation & decided that all Administrative Secretaries and DCOs may submit a certificate within one month to the effect that above mentioned officials, having completed three years on their posts, have been adjusted on posts other than those they held previously.

{Authority: Urdu circular No: SOR-VI (E&AD)/05 dated 28<sup>th</sup> Oct, 2005.

\*\*\*\*\*

The Chief Minister Khyber PakhtunKhwa has directed that:-

- i) Submission of summary would not be required in case of mutual transfer.
- ii) ✓ Posting/transfer shall be made according to the policy;
- iii) Government Servants shall avoid direct submission of applications to the Chief Minister;
- iv) In genuinely deserving case, they should approach the Administrative Secretaries who could process the case according to policy;
- v) In case of direct submission of application to the Chief Minister Secretariat for Posting/ Transfer, the concerned govt servants shall be proceeded against under the prevalent rules and regulations.

{Authority: Urdu circular No: SOR-VI/E&AD/1-4/2003, dated 8-6-2004 & Urdu Letter No: SOR-VI/E&AD/Misc: /2005, dated 3-1-2006.}

It has been decided with the approval of the competent authority that:-

- i) Mutual transfer would be allowed if both the concerned employees agree; except the Government Servants holding Administrative posts;
- ii) Khyber PakhtunKhwa Government Rules of Business 1985 shall be observed while issuing posting/transfer orders.

{Authority: - Urdu circular letter No: SOR (E&AD)/1-4/2005, dated 9-9-2005.}

\*\*\*\*\*

The competent authority has decide that in order to maintain discipline, enhance performance of the departments and ensure optimum service delivery to the masses, the approved /prevalent policy of the posting/transfer shall be strictly followed. Government Servants violating the policy and the Khyber PakhtunKhwa Govt Servants (Conduct) Rules 1987 shall be proceeded against under the Khyber PakhtunKhwa Removal from Service (Special Powers) Ordinance 2000. As required under the Khyber PakhtunKhwa Govt Rules of Business 1985, the Administrative Secretaries shall ensure compliance with the policy and defaulting offices/officials be taken to task & entries to this effect

Attye

shall be made in their PERs/ACRs. In case subordinate officers are working on sites or proceeding for the purpose of inspection, they shall submit inspection Report to their Administrative Secretaries. Administrative Secretaries shall ensure submission of such reports.

{Authority: - Urdu circular No: SOR-VI (E&AD)/1-4/06, dated, 29-6-2007}.

\*\*\*\*\*  
6 In continuation of this Department circular letter No.SOR-VI/E&AD/1-4/2008/Vol-VII dated 11<sup>th</sup> September, 2009, I am directed to refer to the subject and to say that the Provincial Cabinet in its meeting held on 30<sup>th</sup> March, 2010 inter-alia approved the following for the purpose of Posting/Transfer Policy:-

**Unattractive/Hard Areas**

1. ✓ The distinction between unattractive/hard areas should be done away with and both should be labeled as Unattractive areas. ✓
2. Existing list of FATA areas be retained.
3. The following areas were recommended/approved to constitute unattractive areas in NWFP:-

- a. Kohistan District.
- b. Tank District.
- c. Chitral District.
- d. Batgram District.
- e. Shangla District. ✓
- f. Hungu District.
- g. PATA areas of Mansehra (Kala Dhaka)

1) Tenure for settled area 03 years  
2) unattractive area is 02 years  
(P-I)

**Tenure of posting.**

- i. ✓ The erstwhile normal tenure of 2 years be retained. ✓
- ii. Existing tenure for unattractive areas be retained. However, in case of married civil servants, transfer should be made just at the beginning of school session and tenure should be one year instead of 1.5 year, so that academic disruptions are avoided.
- iii. At the time of entry in service, all civil servants be asked to give 4 options from unattractive areas.
- iv. After a stint of service in unattractive area, employees may be offered option to serve in district of choice.

C

**7 PLACEMENT POLICY.**

In order to utilize the expertise of the officers who have received foreign training in various fields, the provincial Government has decided to adopt the Placement Policy, approved by the Prime Minister of Pakistan, and make it a part of its Posting/Transfer Policy. Placement Policy is as follows:-

- i) All placements would be made on the basis of merit and keeping in view the needs of the organization.
- ii) The first priority in placement must go the parent organization of the participant from where the individual had applied. This will be in

A. Mehta

consonance with the concept of establishing the "Need" for the department and fulfilling the need through "capacity building for the organization.

- iii) In order to follow the "bottom up approach" for Devolution, the priority within departments must go to the Districts, the Provinces and than the Federal Government.
- iv) The second priority in placement should go to up-grading the existing training Institution within the country. The knowledge gained by the officers, will be of immense value to bring about a qualitative change in the training institutions. The following proposals are made in this regard:
  - a) Permanent posting of an officer to the training institutions for 2-3 years;
  - b) Temporary attachment with the training intuitions for 3 to 6 months for some research project on helping in developing case studies;
  - c) Earmarked as a visiting faculty member for specific subject.
- v) Individuals posted to their parent organizations will also organize training for their subordinates within the department, in order to transfer the knowledge and bring about a qualitative change internally;
- vi) ✓ The Normal tenure of posting as already provided in the policy would be ensured;
- vii) No participant should be allowed to be posted on deputation to multinational donor agencies for at least 5 years;
- viii) No participants will decline/represent against his/her posting.

\*\*\*\*\*  
\*\*\*\*\*  
\*\*\*\*\*

*Handwritten signature*



POWER OF ATTORNEY

In the Court of Khyber Pakhtunkhwa, Service Tribunal  
Peshawar.

Ms. Nadia Khurshid. } For  
} Plaintiff  
} Appellant  
} Petitioner  
} Complainant

VERSUS

Govt. of Khyber Pakhtunkhwa, through } Defendant  
Chief Secretary and others } Respondent  
} Accused

Appeal/Revision/Suit/Application/Petition/Case No. \_\_\_\_\_ of \_\_\_\_\_  
Fixed for \_\_\_\_\_

I/We, the undersigned, do hereby nominate and appoint

**IJAZ ANWAR ADVOCATE, SUPREME COURT OF PAKISTAN**

Sajid Amine Advocate my true and lawful attorney, for me  
in my same and on my behalf to appear at Peshawar, to appear, plead, act and  
answer in the above Court or any Court to which the business is transferred in the above  
matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits.  
Compromises or other documents whatsoever, in connection with the said matter or any  
matter arising there from and also to apply for and receive all documents or copies of  
documents, depositions etc, and to apply for and issue summons and other writs or sub-  
poena and to apply for and get issued and arrest, attachment or other executions, warrants  
or order and to conduct any proceeding that may arise there out; and to apply for and  
receive payment of any or all sums or submit for the above matter to arbitration, and to  
employee any other Legal Practitioner authorizing him to exercise the power and  
authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other  
lawyer may be appointed by my said counsel to conduct the case who shall have the same  
powers.

AND to all acts legally necessary to manage and conduct the said case in all  
respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf  
under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the  
Court/my authorized agent shall inform the Advocate and make him appear in Court, if the  
case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be  
held responsible for the same. All costs awarded in favour shall be the right of the counsel  
or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at \_\_\_\_\_  
the \_\_\_\_\_ day to \_\_\_\_\_ the year \_\_\_\_\_  
Executant/Executants \_\_\_\_\_  
Accepted subject to the terms regarding fee \_\_\_\_\_

Accepted  
For  
Sajid Amine  
Advocate Peshawar.

  
**Ijaz Anwar**  
Advocate High Courts & Supreme Court of Pakistan

NWFP. Routine 5

No. \_\_\_\_\_ From \_\_\_\_\_

Date \_\_\_\_\_ To \_\_\_\_\_

Encl: \_\_\_\_\_ Rtd = 5/4/2013

SUBJECT:

B2 - Swat to Tarapur

Ali - Ayaz -

S-R: officer

BS-18

2.12.2008/16.12.2009  
Patais Botomist

- L.p.c for Swat

- more than 82,500!

- No notice but pursued

- No proper order

7.1.2014 - 12/1/14

1.7.2015

① political interference

- No public interest  
- No exigencies

19  
7.7.15: 1) Min. cadre post  
2) 18 15 min outing  
3)

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

Service Appeal # 1289/2015.

Ms: Nadia, SDEO(F) (BS-17) Distt: Charsadda under Transfer to Distt:  
Malakand.....**Appellant**

**VERSUS**

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

Parawise comments for & on behalf of Respondents No. 1-3.

**Respectfully Sheweth,**

**The Respondents submit as under:-**

**Preliminary Objections:-**

1. The appellant has got no cause of action/ locus standi.
2. The instant appeal is badly time barred.
3. The appellant has concealed the material facts from this Hon 'able Tribunal, hence is liable to be dismissed on this score.
4. The appellant has not come to this Hon 'able Tribunal with clean hands.
5. The appellant has filed the instant appeal on malafide intentions just to pressurize the Respondents for cancelation of her transfer against the SDEO (F) post to Distt: Malakand.
6. The present appeal is liable to be dismissed for mis-joinder & non joinder of necessary parties.
7. The instant appeal is against the prevailing law and rules.
8. The appellant is estopped by her own conduct to file the instant appeal.
9. The instant appeal is not maintainable in its present form and also in the present circumstances of the issue.
10. That the Notifications dated 01-07-2015 is legally competent and is liable to be maintained in favour of the Respondents.
11. That the Respondent No. 2 is entitled to transfer & post a civil servant under Section 10 of civil servant Act 1973 wherever her services are required by the Competent Authority.
12. That this Hon'able Tribunal has got no jurisdiction to entertain the instant service appeal.
13. That the instant Appeal is bared by Law.
14. That the post of the Appellant is a Provincial Management Carder post and is liable to serve any where in the Province.
15. That the Appellant has been treated as per Law, Rules & Policy in the instant case.

## FACTS.

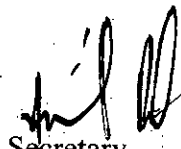
1. Para-1 is correct to the extent that the Appellant is working against the SDEO (F) Provincial Management Cadre Post in the Respondent Department where the rest of the para needs no comments, being related to the Service record of the appellant.
2. Para-2 is also correct to the extent that the Appellant being a civil servant of Provincial Management Cadre post against the SDEO (F), hence she is liable to serve anywhere in the Province wherever her services are required by the Competent Authority against the post she holds in the Respondent Department.
3. Para-3 is correct that the Appellant has been posted against the SDEO (F) post at Distt: Charsadda vide Notification dated 07-01-2014 issued by the Respondent No. 2 in terms of being a management cadre post for the entire Khyber Pakhtunkhwa. Therefore, the plea of the Appellant regarding sticking to the post in question is not only illegal but is also liable to be dismissed in favour of the Respondents.
4. Para-4 is incorrect and denied, the SDEO (F) is not competent to appoint Class-IV/Chowkidars in the Respondent Department rather the DEO (F) is the Competent Authority to appoint the said officials on the approval of the Competent Authority. Hence the plea of the Appellant regarding the exertion of Political pressure upon the Appellant by the said MPA is without any legal force and authentic proof, hence is liable to be dismissed in favour of the Respondent Department.
5. Para-5 is incorrect and denied. The statement of the Appellant is based on malafide intentions in terms of the above made submission in para-4, whereas the Appellant has been transferred and posted against the SDEO (F) post Malakand in terms of the dictionary powers under Section 10 of Civil Servant Act, 1973 on the analogy of being a Provincial Management Cadre post in the Respondent Department.
6. Para-6 is incorrect & denied. No Departmental Appeal whatsoever has been filed by the Appellant against the impugned transferred Notification/order dated 01-07-2015 nor any such record is available in the office of Respondent No. 2 till date, hence the plea of the Appellant is liable to be dismissed in favour of the Respondents.
7. Para-7 is incorrect & denied. The impugned Transfer order dated 01-07-2015 is in accordance with Law, Rules & Policy, and liable to be maintained in favour of the Respondents. Hence the Appeal of the Appellant is liable to be dismissed on the following grounds inter-alia.

## GROUND.

- A. Incorrect and denied. The appellant has been treated in accordance with Law, Rules and as per mandate of her management post in the Respondent Department vide the impugned Notification dated 01-07-2015 issued by the Respondent No. 2 in the interest of public service under the relevant Section of Law.
- B. Incorrect and denied, The impugned transfer order is lawful and duly issued by the Competent Authority under the mandatory provision of Section 10 of Civil Servant Act, 1973 in the interest of public service by the Respondent No. 2.
- C. Incorrect and denied, the post of the Appellant is a Provincial Management Cadre post, hence the Appellant is liable to serve any where in the Province and her services are required by the Competent Authority. Therefore, the plea of the Appellant regarding violation of tenure with reference cited rulings of the Superior Courts are not applicable upon the case of the Appellant in the wake of the above made submission in the foregoing paras.
- D. Correct to the extant that the Appellant has been transferred vide Notification dated 01-07-2015 against the SDEO (f) post from Distt: Charsadda to Distt: Malakand on the analogy of being a Provincial Management Cadre post in the Respondent Department, whereas rest of the para needs no comments being pertains to the domestic problems of the Appellant having no concern with the matte in dispute.
- E. Incorrect and denied, the cited judgment is not applicable upon the case of the Appellant on the grounds of being totally different in nature and point of Law in the given circumstance of the case, hence rejected.
- F. Incorrect and denied, the performance of the Appellant has not been upto o the mark while working against the SDEO (F) Charsadda post in the Respondent Department.
- G. Incorrect and denied, the statement of the Appellant is against the facts and circumstances of the case, hence is liable to be dismissed. Appellant is trying to deceive this Hon'able Tribunal for the purpose of sticking to the post of her choice at Distt: Charsadda on malafide intentions in the Respondent Department.
- H. Incorrect and denied, the statement of the Appellant is without any legal force on the grounds that the Appellant has been transferred in terms of Section 10 of Civil Servant Act 1973 on the analogy of being a Provincial Management Cadre post, hence the plea of the Appellant regarding the exertion of Political pressure in the instant matter is liable to be dismissed in favour of the Respondents.
- I. Incorrect & Denied. The impugned transfer Notification is legally competent and is liable to be maintained in favour of he Respondents in the interest of justice.

- J. Incorrect & Denied. The Appellant has been treated as per Law, Rules & relevant Policy by the Respondents vide the impugned Notification dated 01-07-2015 issued by the Respondent No. 2 in the interest of public service.
- K. The Respondents seek leave this Hon'able Tribunal to submit additional grounds/record & case law at the time of arguments.

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



Secretary,  
Elementary & Secondary Education,  
Department

(Respondents No. 1 & 2)



Director,  
Elementary & Secondary Education,  
Peshawar.

(Respondents NO. 3)



بیان سرپرست  
**PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA.**

No.PA/Khyber-Pakhtunkhwa /I.-V/St:Co: No.(26)/2016/3952-61  
Dated Peshawar, the 03/02/2016

To.


- |  |                    |
|--|--------------------|
| 1. Minister for Elementary and Secondary Education Department. | Ex-officio Member. |
| 2. Mr. Muhammad Arif, MPA                                      | Chairman.          |
| 3. Mr. Shah Faisal, MPA  | Member.            |
| 4. Mr. Jamshed Khan, MPA                                       | Member.            |
| 5. Mr. Sardar Hussain, MPA                                     | Member.            |
| 6. Mr. Shah Hussain Khan, MPA                                  | Member.            |
| 7. Raja Faisal Zaman, MPA                                      | Member.            |
| 8. Ms. Meraj Humayun Khan, MPA                                 | Member.            |
| 9. Ms. Uzma Khan, MPA  | Member.            |
| 10. Ms. Malcha Ali Asghar Khan, MPA                            | Member.            |

Subject:- **MINUTES.**

Dear Sir/Madam,

I am directed to refer to the subject cited above and to enclose herewith a copy of the minutes of meeting of Standing Committee No. 26 on Elementary and Secondary Education Department on **05<sup>th</sup> January, 2016** duly approved by the chairman for information and perusal please.

Yours faithfully,


  
**(KHALID SHAHEEN)**  
Assistant Secretary III

Provincial Assembly of Khyber Pakhtunkhwa

E.No.PA/Khyber Pakhtunkhwa/I.-V/St:Co:No.(26)2016/3962-65 Dated 03/02/2016.

Copy of the above is forwarded for information and perusal please:-

- 1- Mr. Zareen Gul, MPA/Mover.
- 2- Mufli Syed Janan, MPA/Mover.
- 3- Mr. Azam Khan Durrani, MPA/Mover.
- 4- Mr. Mehmood Jan, MPA/Mover.

  
Assistant Secretary III

Provincial Assembly of Khyber Pakhtunkhwa.

E.No.PA/Khyber Pakhtunkhwa/I.-V/St:Co:No.(26)2016/3966-69 Dated 03/02/2016.

Copy of the above is forwarded for information and necessary action to:-

1. The Secretary to Government of Khyber Pakhtunkhwa, Elementary and Secondary Education Department.
2. The Secretary to Government of Khyber Pakhtunkhwa, Law, Parliamentary Affairs and Human Rights Department.
3. The Secretary to Government of Khyber Pakhtunkhwa, Finance Department.
4. The Advocate General Khyber Pakhtunkhwa.

  
Assistant Secretary III

Provincial Assembly of Khyber Pakhtunkhwa.

## صوبائی اسمبلی سیکرٹریٹ خیبر پختونخوا

ریویڈ اور مجلس قائمہ نمبر 26 برائے ابتدائی و ثانوی تعلیم

مجلس قائمہ نمبر 26 برائے محکمہ ابتدائی و ثانوی تعلیم کا اٹھواں اجلاس مورخہ 5 جنوری 2016ء کو بوقت 11.00 بجے پر صوبائی اسمبلی سیکرٹریٹ میں جناب محمد عارف صاحب، ایم پی اے / چیئرمین کی زیر صدارت منعقد ہوا۔

- 2- مندرجہ ذیل اراکین کمیٹی نے اجلاس میں شرکت کی۔
  - 1- راجہ فیصل زمان صاحب، ایم پی اے
  - 2- محترمہ عظمیٰ خان صاحبہ، ایم پی اے
- 3- جناب محمود جان صاحب، ایم پی اے اور جناب اعظم خان درانی صاحب ایم پی اے نے بطور محرکین کمیٹی کے اجلاس میں شرکت کی۔
- 4- مندرجہ ذیل افران نے محکمہ کی نمائندگی کی۔
  - 1- جناب عاطف رحمن صاحب، سیشن سیکرٹری
  - 2- جناب محمد رفیق جنگ صاحب، ڈائریکٹر
  - 3- جناب شریف گل صاحب، ڈی، ای، او، (پشاور)
  - 4- جناب گوہر علی خان صاحب، ڈسٹرکٹ ایجوکیشن آفیسر (انسره)
  - 5- محترمہ زہرہ بی بی صاحبہ، ڈی، ای، او، (چار سدہ)
  - 6- جناب محمد جاوید صاحب، بجٹ آفیسر (فنانس ڈیپارٹمنٹ)
- 5- جناب اکبر علی بنگش صاحب، ڈپٹی سیکرٹری محکمہ قانون و پارلیمانی امور اور انسانی حقوق خیبر پختونخوا اور جناب محمد ریاض پانڈہ خیل صاحب، اسسٹنٹ ایڈووکیٹ جنرل نے ماہرانہ رائے کے لئے اجلاس میں شرکت کی۔
- 6- اجلاس کی کارروائی کا باقاعدہ آغاز تلاوت کلام پاک سے ہوا۔
- 7- جناب محمد عارف صاحب / ایم پی اے / چیئرمین نے تمام شرکاء کا خیر مقدم کرتے ہوئے جناب محمود جان صاحب، ایم پی اے / محرک کو اپنے توجہ دلاؤ نوٹس پر اپنا موقف کمیٹی کے سامنے پیش کرنے کی دعوت دی۔

آئٹم نمبر 1 توجہ دلاؤ نوٹس نمبر 587 منجانب جناب محمود جان صاحب، ایم پی اے / محرک

- 8- جناب محمود جان صاحب، ایم پی اے نے اپنے توجہ دلاؤ نوٹس کے حوالے سے کمیٹی کو بتایا کہ سال 2014 میں تقریباً 1108 ایس ای ٹیز سینٹر انگلش ٹیچر جو NTS کے ذریعے ایک سال کی ایڈہاک پر بھرتی کیے گئے تھے لیکن محکمہ نے ان کی توسیع اور مستقل کرنے کے حوالے سے اب تک کیا اقدامات کئے ہیں۔ ان کی تفصیل بتائی جائے۔



9- جناب عاطف رحمان صاحب، سیشنل سیکرٹری ابتدائی و ثانوی تعلیم نے اس ضمن میں کمیٹی کو بتایا کہ وزیر اعلیٰ صاحب کی بھی ڈیزینہ خواہش ہے اور محکمہ بھی اس کو شش میں ہے کہ یہ کام جلد ہو جائے۔ اس سلسلے میں محکمہ نے کیس تیار کر کے محکمہ قانون کو بھیج دیا تھا لیکن محکمہ قانون نے اس پر کچھ اعتراضات لگائے ہیں محکمہ کے موقف سے محکمہ قانون کا موقف مختلف تھا، اس لیے محکمہ نے چیف سیکرٹری سے درخواست کی ہے کہ محکمہ خزانہ و قانون اور محکمہ تعلیم اکٹھی بیٹھ کر مسئلے کو حل کریں۔

10- جناب محمد عارف صاحب، ایم پی اے / چیئر مین کے استفسار پر کہ یہ مسئلہ کب تک حل ہو جائے گا آیا محکمہ کوئی ٹائم فریم دے سکتا ہے؟ اس پر سیشنل سیکرٹری محکمہ تعلیم نے یقین دہانی کروائی کہ ڈرافٹ تیار ہے دو مہینوں میں اس مسئلے کو حل کر دیا جائے گا۔ محکمہ جو ٹرامیم لے کر آ رہا ہے اس کے ذریعے پہلے مرحلے میں ان کو ریگولر اور دوسرے مرحلے میں ان کو سکول میں بنایا جائے گا۔ انہوں نے مزید بتایا کہ اس سے تقریباً 2500 افراد یعنی مختلف کیدر کے استاتذہ مستقل ہو جائیں گے۔

11- کمیٹی نے محرک کے اطمینان پر مذکورہ توجہ دلاؤ نوٹس کو نمٹایا اور مزید کارروائی نہ کرنے کا فیصلہ کیا۔

سوال نمبر 2 1930 منجانب اعظم خان درانی صاحب، ایم پی اے

12- جناب عاطف رحمان صاحب، سیشنل سیکرٹری نے اعظم خان درانی صاحب ایم پی اے کے سوال نمبر 1930 کے ضمن میں کمیٹی کو بتایا کہ سکولز کی تریں و آرائش و مرمت کے فنڈ میں تقریباً 21 لاکھ روپے کی خورد برد ہوئی ہے جو افسران اس میں ملوث تھے ان کے خلاف جھانڈا انکوٹری ہونے کے بعد سمری برائے تادیبی کارروائی وزیر اعلیٰ صاحب کو ارسال کی جا چکی ہے۔

13- کمیٹی نے محکمہ کو ہدایت کی کہ وزیر اعلیٰ صاحب کی طرف سے سمری پردی گئی ہدایات سے کمیٹی کو آگاہ کیا جائے۔

آئٹم نمبر 3 (از خود نوٹس)

گزشتہ اجلاس میں دی گئی ہدایات پر عمل درآمد

14- جناب عاطف رحمان صاحب، سیشنل سیکرٹری ابتدائی و ثانوی تعلیم نے کمیٹی کو گزشتہ اجلاس میں دی گئی ہدایات پر عمل درآمد سے متعلق کمیٹی کو بتایا کہ ہوات میں 25 گریڈ سکولوں میں تعلیمی سرگرمیاں بحال ہو چکی ہیں۔ جبکہ بقایا بند سکولوں میں خالی آسامیوں کو NTS کے ذریعے مشتمل کیا گیا ہے۔ ٹسٹ بھی ہو چکے ہیں جبکہ دو سکولز GGPS گٹ سید اور GGMS گٹ جو کہ دور دراز علاقوں میں واقع ہیں۔ جو کہ عرصہ 10 سال سے بند تھے ان میں بھی عنقریب NTS کے ذریعے تعیناتیاں عمل میں لائی جائیں گی جس سے تعلیمی سرگرمیاں بحال ہو جائیں گی۔

15- محکمہ کی وضاحت پر کمیٹی نے اطمینان کا اظہار کیا۔

## (از خودنوٹس)

### SST کے لیے دوسرے سروس سٹریکچر اور ٹائٹل سکیم

16- ایس ایس ٹی (SST) ٹیچر کیڈر کے لیے سروس سٹریکچر اور ٹائٹل سکیم دینے کے بارے میں جناب عاطف الرحمان صاحب، سیشنل سیکرٹری نے کمیٹی کو بتایا کہ محکمے نے کیس محکمہ خزانہ کو ارسال کیا تھا محکمہ خزانہ کے ساتھ کئی اجلاس بھی ہوئے ہیں۔ لیکن محکمہ خزانہ کا کہنا ہے کہ اس پر اخراجات کا تخمینہ بہت زیادہ ہے اور حکومت اس بوجھ کو برداشت نہیں کر سکتی لہذا محکمہ خزانہ اس سے متفق نہیں ہے۔

17- اس موقع پر جناب احمد جان محمد زئی صاحب، صوبائی صدر ایس ایس ٹی ٹیچر ایسوسی ایشن نے کمیٹی کو بتایا کہ محکمہ تعلیم نے محکمہ خزانہ، محکمہ قانون اور محکمہ عملہ کو جو مراسلہ بھیجا تھا وہ کیس تمام کیڈر کے اساتذہ کے بارے میں تھا۔ محکمہ خزانہ نے محکمہ تعلیم کو ہدایت کی تھی کہ ایس ایس ٹی کا کیس باقی کیسوں سے جدا کر کے سمجھا جائے جس پر ابھی تک محکمہ تعلیم نے عمل درآمد نہیں کیا ہے۔

18- جناب چیئرمین صاحب نے کہا کہ ایس ایس ٹی کا مسئلہ اسبلی نے قائمہ کمیٹی کی رپورٹ کو متفقہ طور پر پاس کیا ہے محکمہ اس پر عمل درآمد کرنے میں لیت و لعل سے کام لے رہا ہے۔ لہذا محکمہ کو چاہیے کہ وہ اس پر فوراً عمل درآمد کرے۔

## (از خودنوٹس)

### گزشتہ اجلاس کے پیراگراف نمبر 36 پر عمل درآمد

19- جناب عاطف الرحمان صاحب، سیشنل سیکرٹری ابتدائی و ثانوی تعلیم نے بتایا کہ ضلع بنگرام میں محترمہ فرحانہ چند صاحبہ، ایس ڈی ایم کو ایس ایس ٹی کی پوسٹ پر ترقی دی گئی ہے جب کہ محترمہ رانی گل صاحبہ جو اس سے سینئر اور زیادہ تعلیم یافتہ / کوالیفائیڈ تھی کو ترقی نہیں دی گئی باوجود اس کے دونوں کو ایک ہی دن بھرتی کیا گیا تھا کہ ضمن میں محکمہ نے ڈی ای او زانانہ بنگرام کے خلاف انکو آڑی کر کے سمری انضباطی کارروائی کے لیے وزیر اعلیٰ صاحب کو ارسال کر دی گئی ہے۔

20- محکمہ کی وضاحت پر کمیٹی نے اطمینان کا اظہار کیا اور مذکورہ مسئلہ پر مزید کارروائی نہ کرنے کا فیصلہ کیا۔

## از خودنوٹس:

### چار سده کے سکولوں میں اساتذہ کی کمی

21- جناب چیئرمین صاحب نے روائیداد کے پراگراف نمبر 39 کے بارے میں محکمہ سے دریافت کیا کہ ضلع چار سده کے سکولز کے لیے تقریباً 300 آسامیوں کی ضرورت تھی ضلع میں تین تحصیل ہیں ایک تحصیل چار سده دوسری تنگی اور تیسری شبندر لیکن افسوس کی بات یہ ہے کہ تحصیل شبندر اور چار سده کو ایک بھی آسامی کی منظوری نہیں دی گئی۔

22- جناب رفیق خٹک صاحب، ڈائریکٹر ایجوکیشن ابتدائی و ثانوی تعلیم نے کمیٹی کو بتایا کہ محکمہ نے پورے

صوبے کے لیے محکمہ خزانہ سے 21,000 آسامیوں کی منظوری کے لیے کیس بھیجا تھا جس میں سے محکمہ

خزانہ نے 7000 آسامیوں کی منظوری دی ہے اگر ای ڈی اوزنانہ نے ہمیں تحصیل شہد کی آسامیوں کی تفصیل بھیجی ہو تو لازمی تقریباً 100 آسامیوں کی منظوری ہو جاتی۔

23- محترمہ زہرہ بی بی، ای ڈی اوزنانہ چار سڈہ نے کمیٹی کو بتایا کہ ہم نے تینوں تھیلیوں کی آسامیوں کی تفصیل محکمہ تعلیم کو بھیجی تھی۔ اب معلوم نہیں کہ وہ کیوں منظور نہیں ہوئی۔

24- جناب چیئرمین صاحب نے محکمہ قانون سے رائے مانگی کہ اگر کوئی آفسر کمیٹی کے سامنے غلط بیانی کرے تو اس کا کیا طریقہ کار ہے۔ جس پر محکمہ قانون نے کمیٹی کو بتایا کہ اس ضمن میں پرو بلج ایکٹ بالکل واضح ہے۔ کمیٹی ان کے مطابق کارروائی کرنے کا حق رکھتی ہے۔ (کمیٹی نے مذکورہ مسئلہ ذیلی کمیٹی کے حوالے کیا پیرا گراف نمبر

( 31

از خود نوٹس

ضلع بنوں کے سکولز کے فنڈز میں خورد برد

25- جناب اعظم خان درانی صاحب، ایم پی اے نے کہا کہ محکمہ تعلیم ضلع بنوں کے سکولز کو سیکورٹی کی مد میں منظور نظر لوگوں کو پیسے دیئے گئے ہیں جس کا بے دریغ استعمال کیا گیا ہے جیسا کہ حافظ نور شاہ نے سرکاری پیسوں سے اپنا ذاتی گھر بنا لیا ہے بلکہ ایک سرکاری سکول کو کسی اور جگہ شفٹ کر دیا اور اسی سکول کو اپنی رہائشی کے طور پر استعمال کر رہا ہے اس کی بھی حکمانہ انکوائری ہونی چاہیے۔ (کمیٹی نے مذکورہ مسئلہ ذیلی کمیٹی کے حوالے کیا پیرا گراف نمبر 31)

(از خود نوٹس)

ضلع چارسدہ کے گرلز پرائمری سکول غزبک کے فنڈز میں خورد برد

26- محترمہ زہرہ بی بی صاحبہ ڈی ای او چارسدہ نے گورنمنٹ گرلز پرائمری سکول غزبک کے فنڈز میں خورد برد کے بارے میں کمیٹی کو بتایا کہ گورنمنٹ گرلز پرائمری سکول غزبک میں دیوار کی تعمیر مالک جاہیدار کی وجہ سے تاخیر کا شکار تھی ان کی اجازت کے بغیر یہاں تعمیرات نہیں ہو سکتی تھی کیونکہ سانحہ آرمی پبلک سکول کے بعد چار دیواری تعمیر کرنا اشد ضروری تھا اسسٹنٹ کمشنر کی ہدایات پر مالک جاہیداد کے خلاف کارروائی ہوئی اور تعمیر سب ڈویژنل آفیسر (زنانہ) کی زیر نگرانی ہوئی بجلی، پانی اور دیگر مرمت کا کام بھی جاری ہے۔

27- جناب چیئرمین صاحب نے کہا کہ گورنمنٹ پرائمری سکول غزبک چارسدہ کو جو فنڈ دیا گیا ہے وہ تقریباً 62 لاکھ 56 ہزار بنتا ہے ساتھ سب ڈسٹرکٹ ایجوکیشن آفیسر اس فنڈ کو خود کیسے استعمال کر رہی تھی زمینیں کے مالک کے خلاف ایف آئی آر درج کیوں نہیں کی گئی تعمیراتی کام کی نگرانی بھی خود کی ہے پرانی عمارت کو گرایا گیا ہے اس سلسلے میں اگر محکمہ نے کوئی نوٹیفیکیشن جاری کیا ہے تو فراہم کیا جائے اگر کیونٹیکیشن اینڈورس کے محکمہ کے طرف سے کوئی ایسا نوٹیفیکیشن موجود ہے کہ مذکورہ عمارت کے دو کمرے استعمال کے قابل نہیں۔ اگر موجود ہے تو کمیٹی کے سامنے پیش کیا جائے اگر نہیں ہے تو پھر کس قانون کے تحت عمارت کو گرایا گیا۔

28- اس موقع پر جناب عاطف رحمن صاحب، سیشن سیکرٹری محکمہ ابتدائی و ثانوی تعلیم نے جناب چیئرمین

صاحب کے اعتراضات سے اتفاق کیا۔ (کمیٹی نے مذکورہ مسئلہ ذیلی کمیٹی کے حوالے کیا پیرا گراف نمبر 31)

گرلز پرائمری سکول مرجک ضلع چارسدہ

- 29- سب ڈویژنل ایجوکیشن آفیسر چارسدہ نے کمیٹی کو بتایا کہ گورنمنٹ گرلز پرائمری سکول مرچکے آبادی سے دور ہونے اور آمدورفت کا کوئی ذریعہ نہ ہونے کی وجہ سے مذکورہ سکول کو کرایہ پر دیا تھا۔
- 30- جناب چیئرمین صاحب نے کہا کہ جس علاقے میں یہ سکول واقع ہے وہاں پورے علاقے میں قیمتی نوادرات پائے جاتے ہیں جسکی وجہ سے متعلقہ ای ڈی او نے مذکورہ سکول کو اپنے ہی رشتہ داروں کو نوادرات نکالنے کے لیے کرایہ پر دے دیا تھا۔ اسکی بھی چھان بین ہونی چاہیے۔
- 31- کمیٹی نے متفقہ طور پر راجہ فیصل زمان صاحب، ایم پی اے کی سربراہی میں محترمہ عظمیٰ خان صاحبہ، ایم پی اے پر مشتمل ذیلی کمیٹی تشکیل دی جو کے پیر 24، 25، 28 اور 30 میں تمام امور کی چھان بین کر کے رپورٹ جلد از جلد قائمہ کمیٹی کو پیش کرے گی۔

آئٹم نمبر 4 منجانب ملک خالد خان صاحب، صوبائی صدر آل پرائمری اساتذہ ایسوشن (APTA)

- 32- کمیٹی نے درخواست دہندہ کے اجلاس میں عدم شرکت پر غور و مؤخر کیا۔
- آئٹم نمبر 5 منجانب قاری محمد طیب / پرویز خان، جنرل سیکرٹری کی درخواست برائے برطرف ملازمین
- 33- کمیٹی کو بتایا گیا کہ برطرف سرکاری ملازمین کی بحالی کا 2012 بل کے مطابق ایسے برطرف سرکاری ملازمین جو اہلیت پر پورے اترتے تھے ان کو بحال کیا گیا ہے جبکہ وہ برطرف ملازمین جو ایکٹ کے مطابق اہلیت پر پورے نہیں اترتے تھے ان کی تقرری نہیں کی گئی
- 34- کمیٹی نے کافی غور و حوض کے بعد مذکورہ درخواست کو قائمہ کمیٹی برائے محکمہ عملہ کے حوالہ کرنے کی ہدایت کی۔

آئٹم نمبر 6 منجانب محمد ارشاد بوسفری، سرپرست اعلیٰ، سینئر انگلش ٹیچر ایسوشن خیبر پختونخوا

- 35- کمیٹی سے درخواست کی گئی کہ موجودہ حکومت نے نہایت ہی شفاف طریقے سے ایس۔ ایس۔ ٹی (SST) کی خالی اسامیوں پر سیکنڈری سکولز میں تقرریاں مئی 2014 میں کی ہیں مگر تاحال ان کو مستقل نہیں کیا گیا۔
- 36- کمیٹی نے کافی غور و حوض کے بعد فیصلہ کیا کہ سکول Base پالیسی میں کوئی تبدیلی نہیں ہو سکتی لہذا اس درخواست کو نمٹایا گیا اور داخل دفتر کرنے کی ہدایت کی۔

آئٹم نمبر 7 منجانب سلیم جاوید صاحب، چیئرمین پرائمری سکول ٹیچر ایسوشن خیبر پختونخوا

- 37- کمیٹی سے درخواست کی گئی کہ پرائمری سکول کو کوالیفیکیشن کی بنیاد پر سکیل دیا جائے۔
- 38- کمیٹی نے کافی غور و حوض کے بعد فیصلہ کیا کہ پرائمری سکول اساتذہ کی اپ گریڈیشن پہلے ہی دودفعہ کی جاچکی ہے کیونکہ ان کو ترقی کے مواقع میسر ہیں۔ لہذا درخواست کو نمٹایا گیا اور داخل دفتر کرنے کی ہدایت کی۔


آئٹم نمبر 8 منجانب آل سپیشلسٹ پرنسپل، ہیڈ ماسٹر خیبر پختونخوا

- 39- کمیٹی سے درخواست کی گئی تھی کہ سبجیکٹ سپیشلسٹ پرنسپل / ہیڈ ماسٹر کو ترقی کے مواقع میسر نہیں ہیں

40- کمیٹی نے کافی غور و خوض کے فیصلہ کیا کہ سال 2012 اور 2013 میں ہیڈ ماسٹر اور سبجیکٹ سپیشیٹ اساتذہ کی چارجائی فارمولا کے تحت ترقیاں ہوئی ہیں جس کے تحت ہیڈ ماسٹر اور سبجیکٹ سپیشیٹ اور پرنسپل کو ترقی کے مواقع میسر ہیں اس لئے مزید اپ گریڈیشن ممکن نہیں ہیں۔

41- کمیٹی کو بتایا گیا کہ اس ضمن میں قائمہ کمیٹی 25 برائے محکمہ عملہ کی رپورٹ مذکورہ مسئلہ پر پہلے ہی ایوان نے متفقہ طور پر منظور کی ہے اور ان کی درخواست کو نمٹا دیا گیا۔

42- آخر میں جناب چیئرمین صاحب نے تمام شرکاء کا شکریہ ادا کرتے ہوئے اجلاس کو غیر معینہ مدت تک کیلئے ملتوی کر دیا۔

  
(خالد شاہین)

اسٹنٹ سیکرٹری

سوبانی اسمبلی ٹیبر پختونخوا

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

Service Appeal # 1289/2015.

Ms: Nadia, SDEO(F) (BS-17) Distt: Charsadda under Transfer to Distt:  
Malakand.....**Appellant**

**VERSUS**

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

Parawise comments for & on behalf of Respondents No. 1-3.

**Respectfully Sheweth,**

**The Respondents submit as under:-**

**Preliminary Objections:-**

1. The appellant has got no cause of action/ locus standi.
2. The instant appeal is badly time barred.
3. The appellant has concealed the material facts from this Hon 'able Tribunal, hence is liable to be dismissed on this score.
4. The appellant has not come to this Hon 'able Tribunal with clean hands.
5. The appellant has filed the instant appeal on malafide intentions just to pressurize the Respondents for cancelation of her transfer against the SDEO (F) post to Distt: Malakand.
6. The present appeal is liable to be dismissed for mis-joinder & non joinder of necessary parties.
7. The instant appeal is against the prevailing law and rules.
8. The appellant is estopped by her own conduct to file the instant appeal.
9. The instant appeal is not maintainable in its present form and also in the present circumstances of the issue.
10. That the Notifications dated 01-07-2015 is legally competent and is liable to be maintained in favour of the Respondents.
11. That the Respondent No. 2 is entitled to transfer & post a civil servant under Section 10 of civil servant Act 1973 wherever her services are required by the Competent Authority.
12. That this Hon'able Tribunal has got no jurisdiction to entertain the instant service appeal.
13. That the instant Appeal is bared by Law.
14. That the post of the Appellant is a Provincial Management Carder post and is liable to serve any where in the Province.
15. That the Appellant has been treated as per Law, Rules & Policy in the instant case.

## FACTS.

1. Para-1 is correct to the extent that the Appellant is working against the SDEO (F) Provincial Management Cadre Post in the Respondent Department where the rest of the para needs no comments, being related to the Service record of the appellant.
2. Para-2 is also correct to the extent that the Appellant being a civil servant of Provincial Management Cadre post against the SDEO (F), hence she is liable to serve any where in the Province wherever her services are required by the Competent Authority against the post she holds in the Respondent Department.
3. Para-3 is correct that the Appellant has been posted against the SDEO (F) post at Distt: Charsadda vide Notification dated 07-01-2014 issued by the Respondent No. 2 in terms of being a management cadre post for the entire Khyber Pakhtunkhwa. Therefore, the plea of the Appellant regarding sticking to the post in question is not only illegal but is also liable to be dismissed in favour of the Respondents.
4. Para-4 is incorrect and denied, the SDEO (F) is not competent to appoint Class-IV/Chowkidars in the Respondent Department rather the DEO (F) is the Competent Authority to appoint the said officials on the approval of the Competent Authority. Hence the plea of the Appellant regarding the exertion of Political pressure upon the Appellant by the said MPA is without any legal force and authentic proof, hence is liable to be dismissed in favour of the Respondent Department.
5. Para-5 is incorrect and denied. The statement of the Appellant is based on malafide intentions in terms of the above made submission in para-4, whereas the Appellant has been transferred and posted against the SDEO (F) post Malakand in terms of the dictionary powers under Section 10 of Civil Servant Act, 1973 on the analogy of being a Provincial Management Cadre post in the Respondent Department.
6. Para-6 is incorrect & denied. No Departmental Appeal whatsoever has been filed by the Appellant against the impugned transferred Notification/order dated 01-07-2015 nor any such record is available in the office of Respondent No. 2 till date, hence the plea of the Appellant is liable to be dismissed in favour of the Respondents.
7. Para-7 is incorrect & denied. The impugned Transfer order dated 01-07-2015 is in accordance with Law, Rules & Policy, and liable to be maintained in favour of the Respondents. Hence the Appeal of the Appellant is liable to be dismissed on the following grounds inter-alia.


## GROUNDS.

- A. Incorrect and denied. The appellant has been treated in accordance with Law, Rules and as per mandate of her management post in the Respondent Department vide the impugned Notification dated 01-07-2015 issued by the Respondent No. 2 in the interest of public service under the relevant Section of Law.
- B. Incorrect and denied, The impugned transfer order is lawful and duly issued by the Competent Authority under the mandatory provision of Section 10 of Civil Servant Act, 1973 in the interest of public service by the Respondent No. 2.
- C. Incorrect and denied, the post of the Appellant is a Provincial Management Cadre post, hence the Appellant is liable to serve any where in the Province and her services are required by the Competent Authority. Therefore, the plea of the Appellant regarding violation of tenure with reference cited rulings of the Superior Courts are not applicable upon the case of the Appellant in the wake of the above made submission in the foregoing paras.
- D. Correct to the extant that the Appellant has been transferred vide Notification dated 01-07-2015 against the SDEO (f) post from Distt: Charsadda to Distt: Malakand on the analogy of being a Provincial Management Cadre post in the Respondent Department, whereas rest of the para needs no comments being pertains to the domestic problems of the Appellant having no concern with the matte in dispute.
- E. Incorrect and denied, the cited judgment is not applicable upon the case of the Appellant on the grounds of being totally different in nature and point of Law in the given circumstance of the case, hence rejected.
- F. Incorrect and denied, the performance of the Appellant has not been upto o the mark while working against the SDEO (F) Charsadda post in the Respondent Department.
- G. Incorrect and denied, the statement of the Appellant is against the facts and circumstances of the case, hence is liable to be dismissed. Appellant is trying to deceive this Hon'able Tribunal for the purpose of sticking to the post of her choice at Distt: Charsadda on malafide intentions in the Respondent Department.
- H. Incorrect and denied, the statement of the Appellant is without any legal force on the grounds that the Appellant has been transferred in terms of Section 10 of Civil Servant Act 1973 on the analogy of being a Provincial Management Cadre post, hence the plea of the Appellant regarding the exertion of Political pressure in the instant matter is liable to be dismissed in favour of the Respondents.
- I. Incorrect & Denied. The impugned transfer Notification is legally competent and is liable to be maintained in favour of he Respondents in the interest of justice.

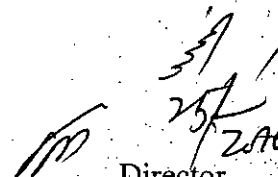


- J. Incorrect & Denied. The Appellant has been treated as per Law, Rules & relevant Policy by the Respondents vide the impugned Notification dated 01-07-2015 issued by the Respondent No. 2 in the interest of public service.
- K. The Respondents seek leave this Hon'able Tribunal to submit additional grounds/record & case law at the time of arguments.

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

  
Secretary,  
Elementary & Secondary Education,  
Department

(Respondents No. 1 & 2)

  
Director,  
Elementary & Secondary Education,  
Peshawar.

(Respondents NO. 3)