

19.07.2016

Counsel for the appellant and Mr. Murtaza, Stenographer alongwith Mr. Usman Ghani, Senior Government Pleader for official respondents No. 1 to 3 present. Learned counsel for the appellant submitted that the appellant has been promoted therefore the instant appeal has become infructuous. Disposed of accordingly. File be consigned to the record room.

ANNOUNCED
19.07.2016


MEMBER


MEMBER


29.03.2016

Appellant in person and Mr. Daud Jan, Supdt: alongwith Muhammad Jan, GP for respondents present. Arguments could not be heard due to non-availability of D.B. Therefore, the case is adjourned to 04.05.2016 for arguments.


Chairman


04.05.2016

Appellant in person and Mr. Daud Jan, Supdt alongwith Asstt: AG for respondents present. Arguments could not be heard due to leaned Member ^{are} (Judicial) _s on leave, therefore, the case is adjourned to 17.06.2016 for arguments.


Member

17.06.2016

Appellant in person and Mr. Murtaza Khan, Stenographer Mr. Usman Gahni, Sr.GP for respondents present. Application for adjournment submitted by appellant stating therein that learned counsel for the appellant has gone to Islamabad to attend the august Supreme Court of Pakistan in some court cases, hence, case is adjourned. To come up for arguments on 19.07.2016. Interim relief order already granted shall continue till the date fixed.


Member


Member

21.09.2015

Counsel for the appellant, M/S Hameedullah Jan, Director Education Fata and Abdul Malik, Assistant Director alongwith Assistant AG for official respondents present. D.B order perused according to which the appeal has been returned to this Bench for avoiding conflicting situation. Let the same come up for further proceedings alongwith contempt petition on 29.10.2015. The restraint order shall continue.


Chairman

29.10.2015

Appellant in person and Daud Jan, Supdt. alongwith Addl: A.G for respondents present. Since the contempt petition has been disposed of as withdrawn by the appellant as such the appeal is reassigned to D.B for rejoinder and final hearing for 23.2.2016.


Chairman

23.02.2016

Appellant in person and Mr. Daud Jan, Supdt. alongwith Addl: AG for respondents present. Arguments could not be heard due to non-availability of D.B. therefore, the case is adjourned to ~~29.03~~ 2016 for arguments.


Chairman

05

01.07.2015

Appellant with counsel and Mr. Daud Jan, Supdt. alongwith Addl: A.G for respondents present. Written reply not submitted. Requested for adjournment. Last opportunity granted. To come up for written reply/comments on 29.7.2015 before S.B. The impugned order shall remain suspended to the extent of appellant.


Chairman

6

29.07.2015

Appellant in person and Mr. Abdul Malik, Assistant Director (lit.) alongwith Addl: A.G for respondents present. Comments submitted. The appeal is assigned to D.B for rejoinder and final hearing for 21.9.2015. The impugned order shall remain suspended to the extent of the appellant.


Chairman

21.09.2015

Appellant with counsel and Mr. Muhammad Jan, GP for the respondents present. The learned counsel for the appellant contended that the respondent-department has violated order of this Tribunal against which the appellant filed Contempt of Court application which is pending before the Bench of learned Chairman of this Tribunal and fixed to-day. He also requested that he may be given further time to file rejoinder. Since COC application of the appellant is pending before the Worthy Chairman therefore, in order to avoid any conflicting situation, this appeal be put up to the Worthy Chairman to-day for further proceedings.


MEMBER


MEMBER

12.05.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as SST/AAEO (BPS-16) at Lower/Central Kurram when vide impugned order dated 18.03.2015 transferred and posted as SST at GHS Bagan Lower/Central Kurram without exhausting his normal tenure of posting as he was posted against the said post vide order dated 08.02.2013. That the appellant preferred departmental appeal against the said order on 20.03.2015 which was rejected on 29.04.2015 and hence the present service appeal on 04.05.2015.

Appellant Deposited
Security & Process Fee



That the impugned order of transfer is politically motivated, malafide and without affording the appellant to serve for the normal tenure of posting.

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 27.05.2015 before S.B. Notice of stay application be also issued to the respondents for the date fixed. Till then status-quo be maintained.


Chairman

4

27.05.2015

Appellant in person and Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 1.7.2015 before S.B. Status-quo be maintained.


Chairman

Form- A

FORM OF ORDER SHEET

Court of

Case No

388/2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1		3
1	04-05-2015	<p>The appeal of Mr. Majid Gul presented today by Mr. Khushdil Khan Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p><i>[Signature]</i> REGISTRAR</p>
2		<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>18-5-15</u></p> <p><i>[Signature]</i> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 388 /2015

Majid Gul Appellant


Versus

Additional Chief Secretary,
FATA Secretariat, Peshawar & others Respondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal with Stay Application and Affidavit.			1-5
2.	Copy of order thereby appellant was transferred to the post of AAEO/Additional AEO Lower/Central Kurram Agency	08.02.2013	A	0-6
3.	Copy of the impugned order thereby appellant was transferred to Govt. High School Bagan Lower/Central Kurram.	18.03.2015	B	0-7
4.	Copy of departmental appeal	20.03.2015	C	0-8
5.	Copy of order thereby appeal for cancellation of transfer order of appellant was rejected.	29.04.2015	D	0-9
6.	Copy of order thereby Service Appeal No.284/2015 was returned to appellant being premature.		E	0-10
7.	Wakalat Nama			

Through


Appellant

Khush Dil Khan
Advocate,

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

Dated: 30 / 04 / 2015

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 388 /2015

Majid Gul,
 Additional Agency Education Officer/Assistant AEO,
 Lower/Central Kurram Appellant

Versus

1. The Additional Chief Secretary,
 FATA Secretariat,
 Warsak Road, Peshawar.
2. The Secretary,
 Social Sectors Department,
 FATA Secretariat,
 Warsak Road, Peshawar.
3. The Director Education FATA,
 FATA Secretariat,
 Warsak Road Peshawar.
4. Mr. Sardar Muhammad,
 SST (BPS-16),
 GMHS Sada, Kurram Agency. Respondents.

K.W.P. Province
Service Tribunal
 Diary No 438
 Dated 04-5-2015

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 18.03.2015 THEREBY APPELLANT WAS TRANSFERRED FROM THE POST OF ADDITIONAL AGENCY EDUCATION OFFICER/ASSISTANT A.E.O. LOWER/CENTRAL KURRAM TO GOVERNMENT HIGH SCHOOL BAGAN LOWER/CENTRAL KURRAM AGAINST WHICH HE FILED DEPARTMENTAL APPEAL ON 20.03.2015 BEFORE THE RESPONDENT NO.2 WHICH WAS REJECTED AND COMMUNICATED TO APPELLANT ON 29.04.2015.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. That appellant is the employee of respondent department holding the post of Secondary School Teacher (BPS-16). By order dated 08.02.2013 (Annex: A) he was transferred to the post of Additional Agency Education Officer/Assistant AEO, Lower/Central Kurram Agency.

Filed to-
 Registrar
 4/5/15

2. That on 18.03.2015 (**Annex: B**), an order was issued by the Respondent No.3 whereby appellant was transferred to Govt. High School Bagan, Lower/Central Kurram while Respondent No.4 posted against his post against which he filed departmental appeal on 20.03.2015 (**Annex: C**) before the Respondent No.2 but the same was rejected and communicated to appellant on 29.04.2015 (**Annex: D**).
3. That in the light of decision of the full Learned Bench of Hon'ble Baluchistan Service Tribunal reported in **2011 PLC (C.S.) 993**, appellant had challenged the impugned order of his transfer through service appeal No.284/2015 which was returned to appellant being premature vide order dated 03.04.2015 (**Annex: E**).

Hence the present appeal is submitted on the following amongst other grounds:

Grounds:

- A. That the appellant has not yet completed his normal tenure at the present place of posting then he was transferred by the impugned order dated 18.03.2015 and Respondent No.4 was posted against his post due to political interference which is not warranted by law and rules.
- B. That the impugned order is based on malafides which was not passed in the public interest rather the Respondent No.3 was interested to accommodate Respondent No.4 being his favourit. Therefore, the impugned order is without lawful authority being violative of rules and policy on subject.
- C. That the impugned order is neither based on any complaint from any quarter nor passed in public interest rather the same was passed without cogent reason and legal justification which is liable to be set aside.
- D. That the impugned order has been passed in the violation of posting transfer policy of the government and thus the impugned order is not sustainable being without lawful authority.


- E. That Respondent No.2 acted in arbitrary manner and rejected departmental appeal of appellant without cogent reason which is not sustainable under the law and liable to be set aside.

It is, therefore, humbly prayed that on acceptance of this service appeal, the impugned orders dated 18.03.2015 and 29.04.2015 may kindly be set aside and appellant may graciously be retained at original place of duty as Additional Agency Education Officer/Assistant AEO, Lower/Central Kurram.

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

Through


Appellant


Khush Dil Khan,
Advocate,
Supreme Court of Pakistan

Dated: 30 / 04 / 2015

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____/2015

Majid Gul Appellant

Versus

Additional Chief Secretary,
FATA Secretariat, Peshawar & others Respondents

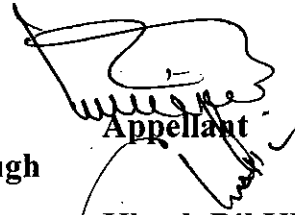
**APPLICATION FOR SUSPENDING THE OPERATION OF
IMPUGNED ORDERS DATED 18.03.2015 AND 29.04.2015
THEREBY APPELLANT/APPLICANT WAS TRANSFERRED
FROM THE POST OF ADDITIONAL AGENCY EDUCATION
OFFICER/ASSISTANT A.E.O., LOWER/CENTRAL KURRAM TO
THE GOVT. HIGH SCHOOL BAGAN LOWER/CENTRAL
KURRAM AND BY SUBSEQUENT ORDER HIS
DEPARTMENTAL APPEAL WAS REJECTED, TILL THE FINAL
DISPOSAL OF THE ACCOMPANIED APPEAL.**

Respectfully Sheweth,

1. That the above titled service appeal is being filed today which is yet to be fixed for hearing.
2. That the facts alleged and grounds taken in the body of main appeal may kindly be taken as an integral part of this application, which make out an excellent prima facie case in favour of appellant/applicant.
3. That the balance of convenience also lies in favour of appellant as he has not yet relieved of his post and still holding the charge and working against that very post thus in such circumstances if the operation of the impugned order is not suspended then applicant/appellant will suffer irreparable loss.

It is, therefore, humbly prayed that on acceptance of this application, the operation of the impugned orders dated 18.03.2015 and 29.04.2015 may graciously be suspended till the final disposal of the appeal.

Through

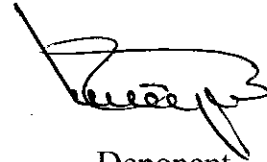


Appellant
Khush Dil Khan,
Advocate,
Supreme Court of Pakistan

Dated: 30 / 04 / 2015

Affidavit

I, Majid Gul, Additional Agency Education Officer/Assistant Agency Education Officer, Lower/Central Kurram, do hereby solemnly affirm and declare on oath that the contents of this application are true and correct to the best of my knowledge and nothing has been concealed from this Hon'ble Tribunal.



Deponent



FATA SECRETARIAT
Social Sectors Department
Warsak Road Peshawar

Annex A

P-6

Dated Peshawar the 08-02-2013

TRANSFER ORDER

No. FS/SSD/SO(E)/AAEO/358-62 The following transfer/adjustment of AAEO/SETs (Male) are hereby ordered in their own pay & Scale to the Schools/ Offices mentioned against their names with immediate effect in the Interest of Public Service:-

S. #	Name /Designation/Office	To be posted/ Adjusted as	Remarks
1.	Mr. Majid Gul SET BPS-16 working as I/C Head Master Govt. High School Minatoo, Kurram Agency	AAEO /Additional AEO Lower/Central Kurram Agency	Vice S. No. 2
2.	Mr. Maeen Gul SET (BS-16)/ AAEO working as Additional AEO Lower/Central Kurram Agency	GHS Sadda Kurram Agency in his own pay & Scale against the post of Princial (B-19)	Vice S. No. 3
3	Mr. Aziz Ullah Head Master (B-17) Govt. High School Sadda working as I/C Principal	Govt. High School Kochi Kurram Agency	Against vacant Head Master Post.

Note:

Charge reports should be submitted to all concerned.
No. TA/DA/Transfer grant is not allowed.

Secretary
Social Sectors Department

Endst No. & Dated Even

Copy forwarded to the.

1. Director Education FATA, Peshawar.
2. Agency Accounts Officer Kurram Agency.
3. Agency Education Officer Kurram Agency.
4. PS to Secretary Social Sector Department FATA Secretariat Peshawar.
5. Officers Concerned.

[Signature]
Section Officer (Edu:SSD)

ATTESTED

[Signature]
8/2/13

Annex B- P-7

DIRECTORATE OF EDUCATION, FATA SECRETARIAT, PESHAWAR
TRANSFER/ADJUSTMENT

The transfer/adjustment of the following SST / AAEO are hereby ordered in their own pay and scale with effect from the dates of their taking over charge in the office/schools in the interest of public service:-

S/#	Name/Designation	Posted at	Remarks
1	Mr. Majid Gul SST/AAEO (B-16) working as Addl: AEO Lower/Central Kurram	GHS Bagan Lower/Central Kurram	Against vacant SST post
2	Mr. Sardar Muhammad SST (B-16) GMHS Sadda Kurram Agency	AAEO/Addl: Agency Education Officer Lower/Central Kurram	Vice S/No.1

NOTE:-

Charge report should be submitted to all concerned

DIRECTOR EDUCATION (FATA)

3177-83
Endst: No. _____ /A-12/Majid Gul AAEO Dated Pesh: the 18/3 2015

Copy forwarded to the:-

- 1 Agency Education Officer, Kurram Agency at Parachinar
- ✓ 2 Addl: Agency Education Officer Lower/Central Kurram
- 3 Agency Accounts Officer, Kurram Agency at Parachinar
- 4 Principal GMHS Sadda Kurram Agency
- 5 P.A to Director Education FATA
- 6-7 P/Files

ATTACHED


DEPUTY DIRECTRESS (ESTAB)

عالمی صدر خان سکریٹری جنرل سٹیٹ بینک پاکستان
ڈائریکٹر سٹیٹ بینک پاکستان

درخواست دربارہ معنوی تبادلہ مہم صدر ایگزیکٹو
انجمنی ایجوکیشن آفسیڈر ایگزیکٹو

کام نمبر 24/13/2015

11/11/2015

2015

ضابطہ

گزارش ہے کہ میں ایگزیکٹو ایڈمنسٹریٹو اور سرکاری سٹاف میں آفسیڈر کے نام
دوسرا سے لے کر پانچ روپے روپے کے سرکاری فرائض سے ہے۔ اسے علاوہ تو
۶۵
عالمی صدر خان ایگزیکٹو ایڈمنسٹریٹو سے ہر فاسٹ کر کے جو ایگزیکٹو
انجمنی سٹیٹ بینک میں آف ایگزیکٹو ہے۔ اس سخت روپے اور ایگزیکٹو
سٹیٹ کوٹریٹس کی شکل میں ملے

ضابطہ رقم ایجوکیشن ٹائمنگ سے 18/3/2015 کو سٹیٹ ایگزیکٹو میں ایگزیکٹو
کوٹریٹ ایگزیکٹو ایگزیکٹو ایگزیکٹو ایگزیکٹو ایگزیکٹو
جو دو سب ڈوٹریٹ (ایگزیکٹو) کا ڈو سٹیٹ ایگزیکٹو جو ایگزیکٹو
ہر ایگزیکٹو ہے۔ اسے علاوہ سٹیٹ ایگزیکٹو ایگزیکٹو ایگزیکٹو
کنڈیشن سے اس سے ایگزیکٹو ایگزیکٹو ایگزیکٹو ایگزیکٹو
گورنمنٹ ٹرائی ٹائمنگ سے

put up
in
the
minutes

گزارش ہے

20/3/15

تفصیلاً 20 مارچ 2015

عالمی صدر خان ایگزیکٹو ایگزیکٹو ایگزیکٹو ایگزیکٹو ایگزیکٹو

ATTESTED

20/3/15



FATA SECRETARIAT
DIRECTORATE OF EDUCATION

WARSAK ROAD PESHAWAR, PAKISTAN

PHONE: 091-92101166 FAX 091-9210211

NO. 1382
177 MAJEED-GUL

DATED 29/4/2015

To

Mr. Majeed Gul
Ex-Addl: Agency Education Officer
Central/Lower Kurram

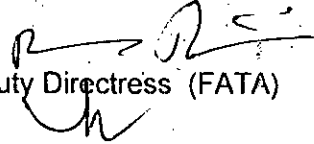
Annex: "D"
P-9

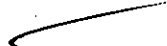
Subject: APPEAL FOR CANCELLATION OF TRANSFER ORDER

I am directed to refer to your application dated 20/03/2015 on the subject cited above and to state that your appeal for cancellation of transfer order is rejected by the competent authority.

C.C

Copy to:-
P.A. to D.E FATA


Deputy Directress (FATA)

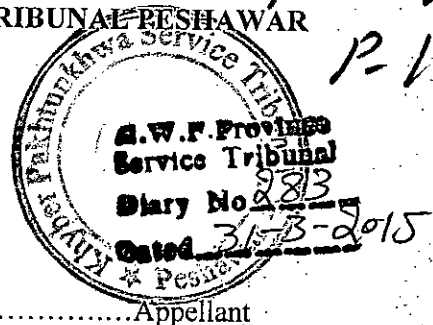

Deputy Directress (FATA)


ATTACHED

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Annex E
P-10

Service Appeal No. 284 /2015



Majid Gul,
Additional Agency Education Officer/Assistant AEO,
Lower/Central KurramAppellant

Versus

1. The Secretary,
Social Sectors Department,
FATA Secretariat,
Warsak Road, Peshawar.
2. The Director Education FATA,
FATA Secretariat,
Warsak Road Peshawar.
3. Mr. Sardar Muhammad,
SST (BPS-16),
GMHS Sada, Kurram Agency.Respondents.

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 18.03.2015 THEREBY APPELLANT WAS TRANSFERRED FROM THE POST OF ADDITIONAL AGENCY EDUCATION OFFICER/ASSISTANT AEO LOWER/CENTRAL KURRAM TO GOVERNMENT HIGH SCHOOL BAGAN LOWER/CENTRAL KURRAM AGAINST WHICH HE FILED DEPARTMENTAL APPEAL ON 20.03.2015 BEFORE THE RESPONDENT NO.1 BUT THE SAME WAS NOT DISPOSED OFF WITHIN THE STATUTORY PERIOD AS MENTIONED IN POLICY ON SUBJECT.

Certified to be true copy
03.04.2015
MAJID GUL
Khyber Pakhtunkhwa Service Tribunal Peshawar

Counsel for the appellant present and heard on the office objection.

Since the period prescribed for decision of departmental appeal has not elapsed as such the appeal is premature and is ordered to be returned to the appellant which may be resubmitted in the prescribed manners if so advised.

Chairman

23.4.2015
400
4
2
6
23.4.2015
23.4.2015

Date

WAKALAT NAMA

IN THE COURT OF Before the K.P.U Service
Tribunal Peshawar.

Majeed Gul. Appellant(s)/Petitioner(s)

VERSUS

The Secretary Section
Sector's department

Respondent(s)

I/We Majeed Gul do hereby appoint
Mr. Khushdil Khan, Advocate Supreme Court of Pakistan in the above
mentioned case, to do all or any of the following acts, deeds and things.

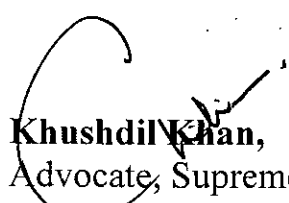
1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of proceedings.

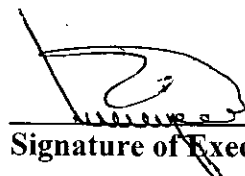
AND hereby agree:-

- a. That the Advocate(s) shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this _____

Attested & Accepted by


Khushdil Khan,
Advocate, Supreme Court of Pakistan


Signature of Executants

BEFORE THE KHYBER PAKHTUNKHAWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 315/2015

Mr. Majeed Gul (B-16) Additional Agency Education Officer Lower Kurram/Central Kurram Agency.....Appellant

.....VERSUS.....

1. The Additional Chief Secretary FATA, FATA Secretariat Warsak Road Peshawar.
2. The Secretary Social Sector Department FATA Secretariat Warsak Road Peshawar.
3. The Director Education FATA, FATA Secretariat Peshawar.
4. Mr. Sardar Muhammad SST (BPS-16) GHMS Sada Kurram Agency.....Respondents

HISTORY OF THE CASE.

The Appellant Mr. Majeed Gul had served as Addl. Agency Education Officer Sada Kurram Agency for 2 years w.e.f 8-2-2013 to 18-03-2015. The appellant was later on transferred to GHS Bagan Lower/Central Kurram on 18-03-2015 due to undesirable activities. Now he lodged an appeal in Khyber Pakhtunkhwa Service Tribunal vide appeal No. 388/2015 for cancellation of his transfer:

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 1 AND 3 IN APPEAL NO. 315/2015.

PRELIMINARY OBJECTIONS.

1. That the appellant has got no cause of action/locus standi to file the instant appeal.
2. That the appellant has not come to this Honorable Tribunal with clean hands.
3. That the appellant has concealed material facts from this Honorable Tribunal.
4. That the appeal is not maintainable in its present form.
5. That the appeal is bad due to non-joinder and mis-joinder of necessary parties.
6. That the appellant is estopped by his own conduct to bring the present appeal.

Reply on facts.

1. No Comments pertain to record.
2. Correct to the extent that the Competent Authority issued the transfer under of the appellant in the interest of Public and for the smooth running of the Department. It is further pointed out that the appellant was involved in undesirable activities. Therefore the Competent Authority rejected his Departmental Appeal.
3. Incorrect. The concerned appellant has completed his normal tenure of 2 year. The appellant was involved in undesirable activities. In this regard an enquiry has been conducted by the Competent Authority. The enquiry officer has completed his enquiry report and recommended the appellant to be suspended/charge-sheeted. The Enquiry Officer also recommended that the salaries of 16 PTCs Teachers may also be recovered from Mr. Majeed Gul (Appellant) under Khyber Pakhtunkhwa Government (E&D) rules 2011 section (a) (ii). The case is under process on emergency basis to proceed further in the matter (copy of Enquiry Report is attached for ready reference as Annexure-A.

Grounds.

- A. Incorrect. According to section-10 of Khyber Pakhtunkhwa Civil Servant Act-1973 " Every Civil Servant shall be liable to Serve anywhere inside or outside the

province". Therefore the appellant has no right to perform his duty according to his wishes.

- B. Incorrect. The appellant transfer order has been issued by the Competent Authority in accordance with law and rules. No action has been taken which is against the norms and natural justice.
- C. Incorrect. As explained in Para No. 3 above.
- D. Incorrect. As explained in Para No. A above.
- E. Incorrect. As the appellant was involved in undesirable activities and on the basis of enquiry officer's recommendation, the transfer order has been issued by the Competent Authority for the smooth running of the Department and in the interest of public.

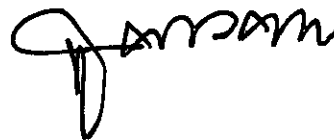
In the light of above facts it is most humbly prayed that the appeal may be dismissed in favor of the respondents with cost throughout.

Respondent No.1



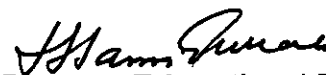
Additional Chief Secretary FATA

Respondent No.2



**Secretary Social Sector Department
FATA Secretariat**

Respondent No3.



**Director Education (FATA)
FATA Secretariat Peshawar**

AFFIDAVIT

We, the above respondents do hereby declare and affirm that the above comments are true and correct to the best of our knowledge and belief that nothing has been concealed from this Hon'ble Tribunal.

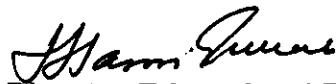
Respondent No.1


Additional Chief Secretary FATA

Respondent No.2


Secretary Social Sector Department
FATA Secretariat

Respondent No3.


Director Education (FATA)
FATA Secretariat Peshawar

5

Inquiry report in respect of Mr Sajid ur Rahman AD(SNE) Dte of Education FATA

Introduction:-

The Director Education FATA, referring the instructions of the competent authority vide No 1970-23 dated 19/02/2015 issued an office order to Atiq-ur-Rahman Agency Education Officer Khyber to conduct an enquiry regarding appointments made during ban period in central kurram Agency (Annexed as A). The undersigned proceeded to Sadda on 04/03/2015 at 7:44 AM after getting permission of PA Khyber through an SMS.

HISTORY OF THE CASE:- A host of public complaints had been pouring in, from various sectors against the sitting Additional AEO, Mr Majeed Gul, an SET teacher. Even in a work shop, in June 2013, conducted by Directorate of Education where in the enquiry officer was master trainer, almost all the teachers (participants) were openly speaking of corruption of Mr Majeed Gul, thereby revealing that there are sufficient grounds for proceedings under section 2 (g) (ii) & 3 (c) of Khyber Pakhtun Khwa Government Servants (Efficiency and Discipline) Rules, 2011, against Mr Majeed Gul.

The arrival of the enquiry officer spread far and wide in Sadda /Central Kurram. Hundreds of complainants, affected teachers, Malikis, Political leaders thronged to the residence of Additional AEO, close to his office, every complainant was leveling allegations against the additional AEO even in his face. Only teachers/HMs, among the complainants were asked to submit their complaints in writings whereas the Political leaders/ belonging to Tehrik Insaf and Malikis were consoled by enquiry officer that their concerns will be conveyed to the high ups in writing, and that their CONCERNS WERE BEYOND THE SCOPE OF THE ENQUIRY.

FINDINGS:-

Mr Majeed Gul, the Additional AEO Central Kurram, an SET teacher, was asked through a detailed and encompassing questionnaire (Annexed as B), as to how much fresh recruitment did he make during ban period and what was the mechanism of that fresh recruitment?

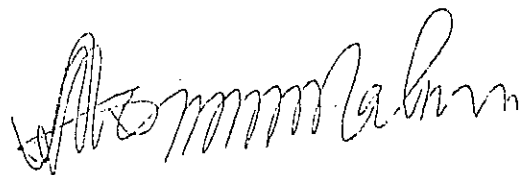
- 1 He handed over a copy of a letter he submitted to Director Education FATA vide No.1988 dt 31/12/2013 where with he appointed 4 class iv (Annexed as C) and letter No.1888-1901 dt 04/03/2014, wherein Director Education FATA had asked for all appointments made during ban (Annexed as D) was showed to the enquiry officer.
 - 2 When asked about the 'teachers appointment' he handed over another letter 164 dt 17/03/2014 where in 16 PTCs have been appointed during Ban (Annexed as E)
 - 3 He also handed over another copy of Director Education FATA letter, addressed to all Agency Education officers vide No.3329-42 dt 02/04/2014, asking all appointments made during ban period. (Annexed as F)
 - 4 When asked about the authority he appointed these 16 teachers he showed a letter from section officer bearing No.SOFATA/Edu/General/1444-16 dt 26/06/2013, where in 'No objection, has been issued subject to the condition that "it may be ensured that not even a single teacher of the project is left and these candidates had applied for the post and are on the top of waiting list". (Annexed as G)
 - 5 When asked about the project teachers he handed over a list 165 teachers comprising of 4 pages issued vide Director Education FATA endorsement No7037-44 dt 14/05/2013 (Annexed as H,I,J&K)
- The complainants had handed over a letter issued by Mr Majeed Gul vide No.1034 dt 13/06/2013 where in the secretary Education had been texted as



" It is stated for your kind information that the competent authority (Governor Khyber pakhtunkhwa has been pleased to approve the regularization of 200 project teachers in kurrum agency and endorsed by the Additional Director Education FATA vide No.7037-14 dated 14/05/2013 in this regard the undersigned has issued regularization order of 71 teachers out of 97 posts at present 25 posts are lying yet vacant. So it is requested to may kindly be approve the following qualified teachers male and female in lower/central kurrum for appointment. It will be the interest of the schools."

SERIOUS POINTS WORTH CONSIDERATION:-

- a) Mr Majeed Gul had submitted a list of 18 teachers for approval of appointment to the then Secretary FATA vide No.4034 dt 13/06/2013 writing him that Governor KP has approved regularization of 200 project teachers in kurrum Agency and Director Education FATA has endorsed that order vide No.7037-14 dt 14/05/2013 and that out of 97 teachers 71 have already been regularized and 26 posts are still vacant so the 18 qualified teachers may be approved to be appointed where as they were neither project teachers nor all qualified ones. This letter whereby Majeed Gul has cheated the then Secretary had been provided by complainant teachers and not by Majeed Gul (Annexed as 1.)
 - b) Mr Ziaur Rahman S/O Mr Mazdeegar Gul falling at S#5 of annexure L, is possessing Dm diploma and no PST. like wise
 - c) The PST course certificate of Mr Mohammad Din S/O Mr Shams ul Din lying S#2 of annexure L, is in progress
 - d) Zuhra Jalil D/O Abdul Jalil at S#4 did her PST just recently after her appointment.
 - e) All the 16 teachers, he appointed were not assigned their duties/Schools so that they may not come in public notice. The statement of the Land owner of GPS Sakhi Ahmad Shah, Mr Mohammad Iltef Bangash bearing Cell phone No.0301-3237876 is witness to that.(Annexed as M)
 - f) The salary of Mr Ihsanullah at S#6 had been started but Mr Ihsanullah was totally ignorant of his own appointment. Now there arises a question as to who was collecting his salaries and how.
 - g) Communal teachers Mr laeeq and Mr Zia submitted a combined application through the husband of Mst Muntaha PST, Communal teacher dt 04/03/2015 recording Cell #0306-5901862, that they are being ignored and fresh recruitment is made(Annexed as N)
- Mst Muntaha PST Communal teacher through her husband submitted her appointment order (Annexed as N1) and photo copies of her service book annexed as N2, N3 N4, N5 and her application photo copy, she submitted to Director Education FATA on 24/10/2013(Annexed as N6). The Additional AEO was asked as to why her pay had been stopped he said that Mst Muntaha had been terminated when asked of the order he showed a plain termination order. But did not hand over a copy of that illegal order, latter by one of the complainant the copy was handed over to the enquiry officer that had been issued vide No.3304-10 dt 18/12/2014 where in 5 other teachers besides Mst Muntaha had been shown to have been removed from service without showing reason of removal. When asked as to how he justifies the removal from service



Miss Muntaha D/O chinarak at girl community school Sra chairga who has had her PTC from Sarhad University Peshawar under Roll #06-FA-065-14 and secured 757/1200 and date of declaration of result was 15-02-2008. He said that she had been removed from service. Latter Mr Majeed Gul faxed a letter from the Controller Sarhad University of Sc & information Technology Peshawar that Mst Muntaha PTC (Primary teaching certificate) is forged (Annexed as NS).

h) The remarks of AEO kurrum over the body of the removal order is a testimony to the fact that he has not fulfilled the required Codal procedure (Annexed as NS)

Recommendations:-

It appears that Mr Majeed Gul has also made other appointments besides 16, he showed to the enquiry officer so

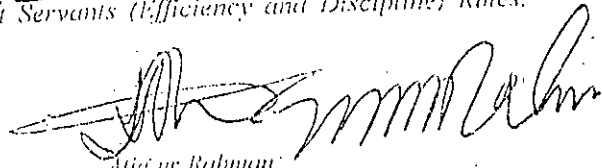
1. Mr Majeed Gul (SET), the additional AEO should be charge sheeted through Director Elementary & Secondary Education Khyber Pakhtunkhwa, for making illegal, fresh recruitment of 16 primary school teachers and 4 class As in ban without observing codal formalities laid down in appointment rules

or


2. Mr Majeed Gul (SET) should be suspended and another formal enquiry should be conducted in the case of fresh recruitments, he made. It appears that he has also recruited more than the 16 teachers, for which the account office kurrum is the proper forum to identify the number.

3. All the fresh recruitment made by Mr Majeed Gul specially of the 16 PTCs plus other appointments he made, should be cancelled being hired from open market and without Codal formalities.

4. The salaries these 16 PTCs, have drawn should be recovered from Mr Majeed Gul SET under Khyber Pakhtun khwa Government Servants (Efficiency and Discipline) Rules, 2011 section 1 (vi) (ii)



Atiq ur Rahman
(enquiry officer)
AEO Khyber



A FEW COMPLAINTS BEYOND THE SCOPE OF THE ENQUIRY BUT AS PER PROMISE THEY ARE BEING BROUGHT IN THE NOTICE OF THE DIRECTOR EDUCATION FATA FOR FURTHER COURSE OF ACTION IF ANY

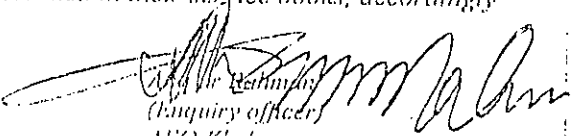
1. Majeed Gul stops the salaries of the poor teachers referring the order of the Political Agent Kurrum and latter release after greasing his palm said the complainants
2. One of the Maliks complained that Miss Asia PTC transferred from GGPS Said Ali Mela CK vide Additional AEO Kurrum No. 5020-25 dt 09/01/2014 to GGPS Ottaka (Annexed as R) has not made attendance in 8 months but regularly drawing her salaries, he submitted attendance register as a token of proof (Annexed as R1, R2, R3, R4, R5, R6, R7 & R8) Malik Makan further added that the schools were closed for winter vacations wef 22/12 to 01/03. Miss Asia came to school on 14th of October 2014 for one day when asked by Malik Makan that she has been transferred in January and taking charge in October she replied that Mr Majeed Gul is being paid Rs6000/= PM (Annexed as R9)
3. Mr Mohammad Farooq S/o Gulab Khan chawkidar GPS Khanama killi lower kurrum is another one who has been terminated illegally and Mr Majeed Gul demanded Rs50000/- for restoration in services, in front of Mr Majeed Gul (Annexed as R10) his other application is (Annexed as R11)
4. Mohd Itaf Bangash an SET teacher has also submitted a complaint (Annexed as R12)
5. An application submitted by the class iv of GDC Bagan lower kurrum against Two of their class ds who were abroad. (Annexed as Q)
 - a) one Mr Maveed Mussarat and other b) Mr Waseem GulBoth are the nephews of Majeed Gul and are abroad the former was in Qatar whereas the latter was in Saudi Arabia

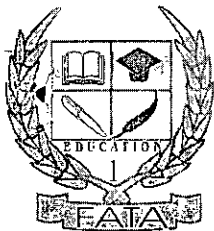
Mr Majeed Gul had issued a show cause notice to them but exonerated them both (Annexed as P). The Principal GDC Bagan has reported their arrival vide No 1641 dt 27/01/2015 (Annexed as Q)

6. A detailed complaint showing all the abroad teachers of Kurrum was handed over to Majeed Gul for writing their CNIC over, but he misplaced the same, feigning that the same had been handed over back to the enquiry officer. Some of the names of the teachers and the countries, they are in areas under.
 - a) Mr Wali Jan PTC S/O Irfan GPS Ormegi Bagan is in Dubai
 - b) Mr Mohd Haneef PTC GPS Dhol Ragha is in Doha
 - c) Mr Habib Khan Lab Asst S/O Banat Khan GIS Baram is in Europe
 - d) Mr Fazal Shah PTC GPS Tahtaki is in london his Pllis 674513 & CNIC W21302-3315320-5
 - e) Mohd Sharif PST S/O Gul Marjan is employed in Doha.
 - f) Mr Hkmatullah GMS Hassan Zai killi Makahai
 - g) Mohammad Rehman PST & Mr Israel Khan SET submitted an application to the Director Education FATA for filling up the AAEO Post through Mst Abida wazir SET D/o Said Wazir GGHS Sadela Lower kurrum (Annexed as Q1)

Recommendations:-

It is recommended that the CNICs of all the 8 officials be collected through their respective DDOs and should be sent to Immigration Department of FIA Bacha Khan international Air Port for their travel history and in case of positive travel history they should be proceeded under Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 section 4 (a) (ii) and the penalty so imposed should be recorded in their service books, accordingly


Enquiry Officer
AEO Khyber



FATA SECRETARIAT
DIRECTORATE OF EDUCATION

KHYBER PAKHTUNKHWA, WARSAK ROAD PESHAWAR, PAKISTAN
PHONE: 091-9210166 FAX 091-9210216

No. 7555 /

Date Pesh: the 20/7/2015

To

The Director Elementary and Secondary Education,
Khyber pakhtunkhwa

Subject:- Charge sheet in r/o Mr Majeed Gul SET

Memo:-

It is stated that frequent and repeated public complaints had been pouring in, in this office regarding the corrupt practices of Additional AEO Sadda, Mr Majeed Gul, an SET teacher.

Consequently an enquiry was conducted in the matter the report of which categorically reported that the accused Mr Majeed Gul SET had hired PST teachers in the system from open market, without observing any codal formality. He had been transferred though he had been exerting extraneous pressure.

A sample charge sheet had been drafted for your signature in the capacity of the competent authority in the instant case. The undersigned is also sending a copy of the said enquiry report. You are requested to sign the charge sheet to be served upon the accused or another formal enquiry may be conducted in the case.

It is suggested that the same may be served upon him please

M 22/7/15
Director Education FATA

OC

CHARGE SHEET

1. I , Rafique Khattak , the Director Elementary and Secondary Education Khyber Pukhtunkhwa, as a competent authority under Khyber Pakhtunkhwa Govt Servants (Efficiency and Discipline) Rules , 2011, do hereby charge You , Mr Majeed Gul (SET), the then Additional AEO Sadda as follow:-
 - a) That you, Mr Majeed Gul (SET), while posted as the Additional AEO Sadda, have illegally recruited 16 primary school teachers from open market, without observing codal formalities laid down in appointment rules, as revealed by the enquiry already conducted for the purpose.
2. By reason of the above, you are guilty of acts of omission and commission under section (b) and (c) of rule No. 3 of the said rules and have rendered yourself to all or any of the penalty in rule No.4 of the rules ibid.
3. You are therefore required to submit your written defense within 7 days of the receipt of this charge sheet to the AEO, competent authority.
4. Your written defense, if any, should reached the undersigned within 7 days not more than 15 days falling which it shall be presumed that you have no defense to put in and in that case expertly action shall be taken against you.
5. Intimate wither you desire to be heard in person.
6. Statement of allegation described in Para 1a

**Director Elementary and
Secondary Education,
Khyber Pukhtunkhwa Peshawar.**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.388/2015

K.P. Provincial
Service Tribunal
Diary No. 453
Dated 8/6/15

Majid Gul Appellant

Versus

The Add: Chief Secretary,
FATA Secretariat, Peshawar & others Respondents

APPLICATION FOR EARLY HEARING.

Respectfully Sheweth,

1. That the titled appeal is pending before the Hon'ble Tribunal wherein the next date for hearing is fixed as 01.07.2015.
2. That in this case stay is also granted in shape of status quo to appellant but the respondent department did not implement the same. Therefore, the matter in question is of urgent nature and needs the immediate attention of this Hon'ble Tribunal for earlier disposal being involved status quo order by this Hon'ble Tribunal.

It is, therefore, humbly prayed that on acceptance of this application, the appeal may kindly be accelerated to an early date than the date already fixed.

Through

Applicant/Appellant

Khush Dil Khan
Advocate,
Supreme Court of Pakistan

Dated: 4 / 06 / 2015

Rejected
by
09-06-15

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.388/2015

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Versus

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Applicant/Appellant

Khush-Dil Khan
Advocate,
Supreme Court of Pakistan

Dated: 4 / 06 / 2015

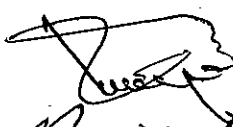
To
The Member & DB 2 Service Tribunal
Wheeler Road, Thiruvananthapuram

Subject: Request for next date in Appeal No
388/15

Sir > Respectfully it is stated that
Mr. Khushdil Khan Advocate has gone
to Islamabad to attend the Supreme
Court case.

In view of the above it is requested
to may kindly be given next date
for arguments please.

Dated 17/06/2016

Yours obediently,

Mujib Gul Add ABO
Human Agency Sudda

Appeal No 388/15