

14.01.2016

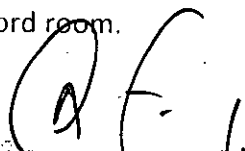
Counsel for appellant (Mr. Yaqoob Khan, Advocate) and Mr. Hameed-ur-Rehman, AD (lit.) alongwith Mr. Muhammad Jan, GP for respondents present.

2. The appellant has preferred the instant service appeal under section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the impugned order dated 28.3.2015 vide which the appellant was transferred from GGHS Baghicha Dehri Mardan to GGHS Zando Dheri Mardan where-against she preferred departmental appeal on 24.4.2015 which was not responded and hence the instant service appeal on 6.8.2015.

3. Arguments heard and record perused.

4. Impugned order passed on 28.3.2014 vide which the appellant, stands transferred from GGHS Baghicha Dheri to Zando Dheri provides that the transfer <sup>of</sup> take placed on 1.4.2015. This order is defective order for the reasons that the transfer order should have been made with immediate effect instead <sup>of</sup> being effective in a date in future at a distance of about one year. The impugned order was passed by DEO (F) Mardan on 28.3.2014 who was no more on seat on 1.4.2015 when the order actualized which shows her malafide. The appellate authority has not so far decided departmental appeal of the appellant, therefore, the Tribunal would like to remit the matter to the appellate authority with the directions to decide departmental appeal within one month after the receipt of this order, purely on merits and in accordance with law/rules. If the departmental appeal is not decided within the stipulated period, the impugned order be deemed as cancelled and the appeal accepted accordingly. In the meanwhile, status-quo be maintained till disposal of the departmental appeal. The appellate authority is further directed to also decide the issue of salary of the appellant. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED  
14.01.2016

  
MEMBER

  
MEMBER

27.10.2015

Application for release of monthly salaries of appellant submitted by learned counsel for the appellant. Notice of the said application be issued to respondent No. 2 i.e DEO.(F), E&SE, Mardan for the date already fixed i.e 10.11.2015.

  
Chairman

10.11.2015

Mr. Gul Sher Khan on behalf of the appellant, M/S Hameed-ur-Rehman, AD (lit.) and Khurshid Khan, SO alongwith Addl: A.G for official respondents No. 1, 2 and 4 present. Written reply not submitted. Requested for further adjournment. Last opportunity granted. To come up for written reply/comments on 3.12.2015 before S.B. The restraint order shall continue.

  
Chairman

03.12.2015

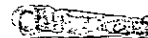
Mr. Gul Sher on behalf of the appellant, M/S Hameed-ur-Rehman, AD (lit.), Khurshid Khan, SO and Fazale Wahid, Clerk alongwith Addl: A.G for official respondents No. 1, 2 and 4 present. Written reply on behalf of respondents No. 1, 2 and 4 submitted, however, the same is signed by respondent No. 2 only and learned Addl: AG relies on the same on behalf of respondents No. 1 and 4. None present on behalf of private respondent No. 3. Proceeded ex-parte. The appeal is assigned to D.B for rejoinder and final hearing for 14.1.2016. The restraint order shall continue.

  
Chairman









12.08.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving SST when transferred to GGHS Zando Dheri vide impugned order dated 28.3.2015 with an object to accommodate newly appointed SST namely Mst. Zenat Begum. That the appellant preferred departmental appeal against the said transfer order on 24.4.2015 which was not responded and hence the instant service appeal on 6.8.2015.

That the appellant was senior as well as her normal tenure of posting was not matured and, furthermore, she was posted against the none-cadre post though she was to serve against a cadre post. Places reliance on clause-iv of transfer/posting policy dated 22.12.2006 (Annexure-F) and Education Standing Practices.

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 22.9.2015 before S.B. Notice of stay application be also issued for the date fixed. Status-quo be maintained.

  
Chairman

22.09.2015

Counsel for the appellant and Mr. Khurshid Khan, SO alongwith Addl. A.G for official respondents No. 1, 2 and 4 present. Requested for adjournment. To come up for written reply/comments on 10.11.2015 before S.B. Status-quo be maintained.



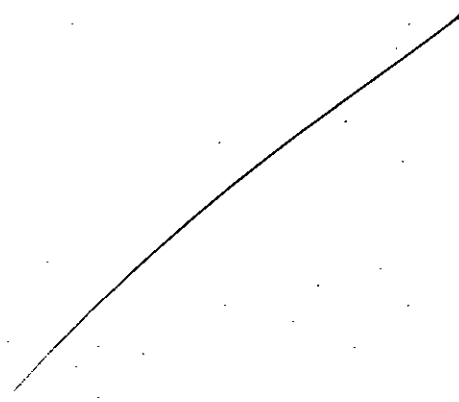
  
Chairman



Form- A  
FORM OF ORDER SHEET

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

Case No. 886 /2015

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	06.08.2015	<p>The appeal of Mst. Azra Shaheen presented today by Mr. Yaqoob Khan Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order. -</p> <p> REGISTRAR</p>
2	10-8-15	<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>12-8-15</u></p> <p> CHAIRMAN</p> 

Before the Service Tribunal KPK, Peshawar

*Appeal no - 886/2015*

Azra Shaheen

V/s D.E.O & others

Appellant

Respondents

**Appeal**

**INDEX**

S.No.	Descriptions	Pages	
		From	To
1	Appeal & affidavit	1	4
2	Copy of the order dated 11/04/1990	-	5
3	copy of the order dated 31/08/2000	-	6
4	Copy of order dated 18/02/2013	-	7
5	Copy of the impugned transferred order <i>dt 28/3/2015</i>		8
6	Copy of the departmental appeal	9	10
7	Wakalat nama		

Dated 05/08/2015

Appellant

*Azra Shaheen*  
Mst. Azra Shaheen

Through

*Yaqoob Khan*  
Yaqoob Khan advocate High Court

*Mobins 03219309427*  
*0304 5207157*

D

**Before the Service Tribunal KPK, Peshawar**

Appeal No. 886 /2015

**A.W.F. Previous  
Service Tribunal**  
Diary No. 944  
Dated 06/8/2015

Azra Shaheen W/o Manzar Khan SET Teacher GGHS Baghicha  
Dheri Mardan resident of village Bagh colony Mardan  
.....Appellant

V/s

1. Director of (E & SE) KPK Peshawar
2. D.E.O (F) (S) (E& SE) Mardan.
3. Mis Zenat Begum D/o Ibrahim Khan SET teacher GGHS  
Baghicha Dheri Mardan
4. Secretary Education, KPK, Peshawar.....Respondents

Appeal U/S-4 of the KPK Service Tribunal Act 1974 against the  
order of respondent No.1 dated 28/03/2014, in fact 28/03/2015,  
whereby, appellant is transferred from GGHS Baghicha Dheri  
Mardan to GGHS Zando Dheri Mardan against the post of SST  
Teacher in her own pay and scale which is illegal, against law  
and facts.

**Respectfully sheweth;**

**Appellant humbly submits as under**

- 6/8/15
1. That appellant is post as a SET teacher in GGHS Baghicha  
Dheri Mardan.
  2. That appellant was appointed is a untrained teacher BPS-15 in  
GGHS Landi Kotal 9 Khyber Agency) vide order dated  
11/04/1990. (Copy of the order dated 11/04/1990, is attached  
as Annex: "A").
  3. That appellant was transferred from GGHS Landi Kotal  
(Khyber Agency) to GGMS Kohi Barmole Mardan after  
proper approval of competent authority on her marriage in

Mardan vide order dated 31/08/2000. (copy of the order dated 31/08/2000 is Annex: "B").

- 4. That appellant was once again transferred from GGHS Kohi Barmol to GGHS Baghicha Dheri Mardan vide order dated 18/02/2013. (Copy of order is attached as Annex: "C").
- 5. That private respondent namely Mst. Zeenat Begum D/o Irahim SET has been promoted to the post of SET teacher (BPS-16-) BUT after her promotion she was kept at said school in which she was promoted without availability of SET post on political influence, while due to over strength of SET's teacher appellant is transferred from GGHS Baghicha Dheri Mardan to GGHS Zando Dheri Mardan vide impugned transferred order dated 28/03/2014 in fact 28/03/2015, which is illegal, against the law and facts. (Copy of the impugned transferred order is attached as Annex: "D").
- 6. That appellant preferred an appeal before the respondent No.1 Director of (E&SE) KPK Peshawar but in vain. (Copy of the departmental appeal is hereby attached as Annex: "E").
- 7. That order of respondent No.1 dated 28/03/2014 in fact 28/03/2015 is illegal, against law and facts on the following grounds:-

**GROUND:-**

- A. That impugned transferred of respondent No.1 is illegal, against law and facts.
- B. That appellant has not been completed her tenure at her post.
- C. That impugned transferred order is not in public interest nor in exigency of service.
- D. That impugned transferred order issued on the basis of political influence and with malafide intention, which is not sustainable in the eye of law and liable to be set aside.
- E. That impugned transfer order is frequent transfer which is depreciated by Apex supreme court of Pakistan in reported judgment (PLJ 1995 S.C P-629).
- F. That appellant being a female, should be served at her home station i.e Mardan.

G. That as per the posting transfer policy and ratio of respondent, low paid employee should be served at her home station.

*It is therefore, humbly requested that on acceptance of the instant appeal, impugned transfer order dated 28/03/2014 in fact 28/03/2015 may please be set aside and appellant may please be allowed to continue her service at her psot i.e GGHS Baghicha Dheri Mardan.*

Dated 05/08/2015

Appellant Azra Shaheen  
Azra Shaheen

Through Yaqoob Khan  
Yaqoob Khan advocate High Court



Before the Service Tribunal KPK, Peshawar

3

Azra Shaheen

V/s D.E.O & others

Appellant

Respondents

Appeal

**AFFIDAVIT**

I, do hereby solemnly affirm and declare on oath that all the contents of the above mentioned appeal are true and correct to the best of my knowledge and belief and nothing has been concealed.

Deponent

*Azra shaheen*

**ATTESTED**

**SHAKEEL AMAN  
ADVOCATE  
NOTARY PUBLIC  
PESHAWAR 03369703662**

Before the Service Tribunal KPK Peshawar.

Appeal No: &&& \_\_\_\_\_/2015

Mst: Azra Shaheen BS Director of (E&SE) KPK etc.

(Appellant)

(Respondents)

Service Appeal

Subject : Application for suspension operation of the  
Impugned transfer order dated 28/7/09/2014 infact  
28/3/2015 till the decision of the case.

Respectfully sheweth:-

1. That above captioncase has been filed before this honourable court and date is still not fixed.
2. That appellant has got a prima facie case.
3. That balance of convinience lies in favours of appellant.
4. That there will be irreparable loss to the appellant if statusquo is not granted.

ATTESTED

SANJEEV AMAN  
ADVOCATE  
'NOTARY PUBLIC'  
PESHAWAR 03369703662

It is therefore, humbly requested that stay may please be granted in favour of appellant against respondent till the decision of the case.

Yaqub Khan Appellant Azra Shaheen

Dated 4/8/2015

Through Counsel;: Yaqub Khan Advocate  
I undersigned declare on oath that contents are true & correct.  
Deponent Azra Shaheen

Affidavit

FORM "A"

FORM OF ORDER SHEET

Court of.....

Case No.....of.....

Serial No. of Order or Proceedings 1	Date of Order or Proceedings 2	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary 3
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S.S.T.

- SET:

11.4.90 GHS لندی کونسل

- Transfer to کوئی برہنہ : 11.8.2008:

- " " GHS باغی دوسری 18.2.2013:

- Dep: end : GHS زینت وار دوسری 28.3.2014

Appel:

2014
28.3.
1.4.2015
24.4.2015

↓

Serial No. of Order or Proceedings	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3

(Better copy)

Aux A  
5

Dated 11/4/1990

Directorate of Education (E & Sec) N.W.F.P Peshawar.

APPOINTMENT

The following candidates are hereby appointed as untrained mistresses on BPS-15 (Rs.1165/-) and BPS-9 (Rs.830/- PM fixed plus usual allowance as admissiable to them under the rules with effect from the dates of their taking over charge in the schools noted against their names:-

<u>S.No</u>	<u>Name/Father's Name</u>	<u>To be posted at</u>	<u>Remarks</u>
1)	Hamida Shah, M.Sc: D/O Khush Dil Shah, Danish Abad H.G.6 Peshawar University.	Govt.Girls High School Jamrud ( Khyber Agency)	Against vacant SET Post BPS-15
2)	Yasmin Bibi, MA, D/O Sikandar Khan Mohallah Fateh Khan Khail Kohat.	Govt.Girls Higher Sec- endary School Parachinar ( Kurram Agency)	Against vacant Sub:Specialist post of Islamiat BPS-15
3)	Azra Shaheen BA, D/O Mohammad Rafiq Lahori Moh: Sarbanan House No. 2392 Peshawar City.	Govt.G.H.S LandiiKotal(Khyber Agy)	Against vacant SV post BPS-9
4)	Ismat Bibi, BA, D/O	X X X X	

NOTES:-

- 1) Charge report should be submitted in duplicate to all concerned immediately after taking over charge.
- 2) Their appointment being made favourly on temporarily basis and are liable to terminate any time with notice and without reasons.
- 3) The original Qualification, Date of Birth and Domicile Certificate should be cheked before the handing over charge.
- 4) TA/DA etc is not allowed.
- 5) They should be sent for medical examination before the Surgen.
- 6) Their verification roll of character and antenedents should be got completed.
- 7) The pay scale and service rules would be subject to revision.

Sd x x x x  
District Education Officer

( Female ) Mardan.

Dated 11/4/1990

Attested  
Yusuf:

11/4/90 / اجلاس منہ اجلاس

5  
B  
C

Directorate of Education (P.A.C.) Peshawar.

APPOINTMENT

The following candidates are hereby appointed as untrained. Their salaries on BPS-15 (Rs. 1165/-) and BPS-9 (Rs. 830/-) PM fixed plus usual allowance as admissible to them under the rules with effect from the date of their taking over charge of the schools noted against their names :-

S.No.	Name/Father's Name	To be posted at	Remarks
1)	Hamida Shah, M.Sc. D/O Khush Dil Shah, Danish Abad H.G:6 Peshawar University.	Govt. Girls High School Larud (Khyber Agency)	Against vacant SLT post BPS-15
2)	Yasmin Bibi, BA, D/O Sikander Khan Mohallah Fateh Khan Khalil Khat.	Govt. Girls Higher Sec- ondary School Parachinar (Kurram Agency)	Against vacant Sub: Specialist post of Istemat BPS-15
3)	Azra Shaheen, BA, D/O Mohammad Rafiq Lahori Gate Mohallah Sarbanan House No. 2392, Peshawar City.	Govt. Girls High School Landi Kotal (Khyber Agy:)	Against vacant SV post BPS-9
4)	Ismat Bibi, BA, D/O Karim Bakhash C/O Nasim Mohammad Duty Officer State Bank of Pakistan, Peshawar.	Govt. Girls High School Khat (Bajour Agency)	Against vacant CT post BPS-9

NOTES:-

- 1) Charge reports shall be submitted in duplicate to all concerned immediately after taking over charge.
- 2) Their appointment is being made purely on temporarily basis and are liable to termination at any time without notice & without assigning reason. In case they wish to resign their posts they shall have to give one month's prior notice or forfeit one month's pay in lieu thereof. Their services will be terminated if they are not selected by the Selection Committee.
- 3) The original qualification, date of birth & domicile certificates should be checked before they are handed over charge of the post and attested copies thereof be kept on the record of school.
- 4) TA/DA etc. is not allowed.
- 5) They should be sent to the Agency Civil Surgeon concerned for medical examination the day on which they report their arrival for duty and no pay should be drawn for them unless and until they produce their health and age certificates from the said Surgeon.
- 6) Their verification roll of character and antecedents should be got completed and verified from the authorities concerned.
- 7) The pay scale and service rules would be subject to revision in accordance with the orders to be passed by the Government of NWFP, from time to time.

Attested  
[Signature]

[Signature]  
A.D.O (Female)

District Education Officer  
(Female)

TRANSFER/ADJUSTMENT OF CT:MISTRESS.

*Ann B*

Approval of Departmental Placement Scrutiny Committee held on 30.8.2000, in the Chairmanship of Director of Secondary Education, NWFP: Peshawar, the following Teaching is hereby ordered (being authorised by Director of Education Secy: NWFP: Peshawar) in the Interest of public Service, with immediate effect from the date of their taking over charge.

2) The Principal/Head Mistresses of the concerned School are directed to check all the credential particularly orders of 1st; appointment Academic as well as professional Certificates/Sanads/Degrees, Pomicile & Original Service Book of the Officials of all the category as posted in your respective School taking over charge if found their credentials documents correct, other-wise the responsibility will be held on your Shoulders.

S.No.	Name with School	Posted at	Remarks.
1)	Met; Jan Dibi GGMS: Kohi Barmol	GGHS: No. 2. Hoti	V: S: No. 2.
2)	Met; Gul Naz GGHS: No. 2. Hoti	GGMS: G. F. Zai	A. V. Post.
3)	Met; Danish Begum GGMS: Qasmi (Toru)	GGHSS: Toru	V: S: No. 4.
4)	Mst; Fahmida Begum GGHSS: Toru	GGMS: Qasmi (Toru)	V: S: No. 3.
5)	Mst; Nihayat Begum GGHS: B/Theri	GGHS: No. 1. Man	V: S: No. 6.
6)	Mst; Ruzia Kausar GGHS: No. 1. Man	GGHS: B/Theri	V: S: No. 5.
7)	Mst; Riasat Begum GGMS: Khazana Dheri	GGHS: No. 1. Man	V: S: No. 8.
8)	Mst; Khalida Naz GGHS: No. 1. Man	GGMS: Khazana Dheri	V: S: No. 7.
9)	Mst; Lelun Nihar GGHS: G. F. Zai	GGHSS: Toru	V: S: No. 10.
10)	Mst; Rubina Alam GGHSS: Toru	GGHS: G. F. Zai	V: S: No. 9.
11)	Mst; Ishrat-Jehan GGMS: N. K. Shah	GGMS: Kot.	A. V. Post.
12)	Mst; Fozia Bano GGMS: Baringan	GGHS: B/Theri	V: S: No. 21.
13)	Mst; Zakia Yasmin GGMS: Kot Jungara	GGMS: Sanga (L/K)	A. V. Post.
14)	Mst; Aliq Qayum GGMS: Dheri Likpandi	GGMS: Parkho Dheri	V: S: No. 15.
15)	Mst; Salma Naz GGMS: Parkho Dheri	GGMS: Kot Jungara	V: S: No. 13.
16)	Mst; Wajahat Sultana GGMS: Bakhshali	GGMS: Katta Khat	V: S: No. 17.
17)	Mst; Gohar Begum GGMS: Katta Khat	GGMS: Bakhshali	V: S: No. 16.
18)	Mst; Zakia Bibi GGMS: Seray Koroona	GGMS: Babani	A. V. Post.
19)	Mst; Nasreen Begum GGMS: Kandari	GGMS: Seray Koroona	V: S: No. 18.
20)	Mst; Shahneela GGHS: Dheri Aladand (MKT)	GGMS: Kandari	V: S: No. 19.
21)	Mst; Anjum Ara GGHS: Baghicha Dheri	GGHS: B/Gunj	V: S: No. 22.
22)	Mst; Shaista Gul GGHS: B/Gunj	GGMS: Chamdheri	A. V. Post.
23)	Mst; Kausar Hakim GGMS: Civil Colony (Bjr.)	GGMS: Pirsiddi	A. V. Post.
24)	Mst; Rozena Bibi GGHS: Raghaka	GGMS: Sokai	A. V. Post.
25)	Mst; Saceda GGHS: Salim Khan (Sb.)	GGMS: Bagh Killi	A. V. Post.
26)	Mst; Navida Khan GGHS: Mir Bak (Orak)	GGMS: Babozai	A. V. Post.
27)	Mst; Shabana Sardar GGMS: Shahwali Killi (K.A)	GGMS: P/Theri	A. V. Post.
28)	Mst; Sajida Gul GGMS: Manyal (Dir)	GGMS: Anar Baig	A. V. Post.
29)	Mst; Azra Shaheen GGHS: Landi Kotal (K.A)	GGMS: Kohi Barmol	A. V. Post.
30)	Mst; Zakia Begum GGMS: Bara Banda (NSR)	GGMS: Sokai	A. V. Post.

(MISS: SAHEERA AKHTAR)

DISTRICT EDUCATION OFFICER (FEMALE)  
 SECONDARY MARDAN.

Encl: No. 300/11/2000 / Dt: 31/8/2000

Copy for information & necessary action to the:

- 1) The Director of Secy: Edu: Peshawar, NWFP their respective schools as noted above.
- 2) The Principal/Head Mistresses, GGHSS/ GGHS/ GGMS/ concerned Schools with the request to follow up to the Para No. 2. of the order strictly.
- 3) Candidate Concerned.
- 4) District Accounts Officer Mardan.
- 5) The Accountant Local Office.

DISTRICT EDUCATION OFFICER  
 (FEMALE) SECONDARY MARDAN.

31/8/2000

*Attestat*

Aux C

7

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) MARDAN.

TRANSFER.

Mst; Azra Shaheen S.E.T Govt; Girls High School Kei Barmel is hereby transferred to Govt; Girls High School Baghicha Dheri against S.E.T Post on her own pay and BPS with immediate effect in the interest of public service.

Note:- No TA/DA is allowed.

Charge report should be sent to all concerned.

( MST: ATIA BEGUM )  
DISTRICT EDUCATION OFFICER  
(FEMALE) MARDAN.

Encl: No. 796-99/ S.E.T Transfer file, dated. 18/2/2013.

Copy of the above is forwarded to the:-

01. Principal Govt; Girls High School Kei Barmel.
02. Principal Govt; Girls High School Baghicha Dheri.
03. District Controller Office Mardan.
04. Official concerned.

*Atty 27/3*  
DISTRICT EDUCATION OFFICER  
(FEMALE) MARDAN.

*Attested*  
*Yusuf*



BETTER COPY

Aux D

OFFICE OF THE D.E.O (F) MARDAN.

(8)

OFFICE ORDER

Miss Azra Shaheen SST, (G) is hereby transferred to G.G.H.S, Zando Dhery against newly created post on her own pay & scale and BPS with effect from 01.04.2015, in the interest of public service.

Sd x x x

( D . E . O ) ( F )  
Mardan.

Endst No. 2201-4-SST

Dated 28-03-2014

Copy to All Concerned

Sd x x x

D . E . O

( Female ) Mardan.

Attested by  
[Signature]

21

8

12

*(Handwritten mark)*

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) MARDAN

PHONE/FAX NO. 0937-9230150

Email Address: emismardan\_deofemale @Yahoo.com

OFFICE ORDER

Ms. Azeen Shaheen Sst. (G) is hereby transfer to GGHS, Zando Dheri against Newly Created Post on her own pay & BPS w.e.f: 01/04/2015, in the interest of public service

*(District Begum)*

DISTRICT EDUCATION OFFICER  
(FEMALE) MARDAN

Eds/No

2251-4

SST/Tr/Adj./File/ Dated

28/3

/2014

- 1. Head Mistress, GGHS (Baghicha Dheri) Mardan
- 2. Head Mistress, GGHS, Zando Dheri Mardan
- 3. District Accounts Officer Mardan
- 4. Candidate Concerned.

*(Signature)*  
DISTRICT EDUCATION OFFICER  
(FEMALE) MARDAN

*Attested to be true copy:-*  
*(Signature)*

Before the Director of School KPK, Peshawar

Aux B  
9

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

Azra Shaheen W/o Manzar Khan SET Teacher GGHS Baghicha  
Dheri Mardan resident of village Bagh colony Mardan  
.....Appellant

V/s

1. D.E.O (F) (S) (E& SE) Mardan.
2. Mis Zeenat Begum D/o Ibrahim Khan SET teacher GGHS  
Baghicha Dheri Mardan .....Respondents

Departmental appeal against the order of respondent No.1  
dated 28/03/2014, in fact 28/03/2015, whereby, appellant is  
transferred from GGHS Baghicha Dheri Mardan to GGHS  
Zando Dheri Mardan against the post of SST Teacher in her  
own pay and scale which is illegal, against law and facts.

Respectfully sheweth;

Appellant humbly submits as under

1. That appellant is post as a SET teacher in GGHS Baghicha  
Dheri Mardan.
2. That appellant was appointed is a untrained teacher BPS-15 in  
GGHS Landi Kotal 9 (Khyber Agency) vide order dated  
11/04/1990. (Copy of the order dated 11/04/1990 is attached  
as Annex: "A").
3. That appellant was transferred from GGHS Landi Kotal  
(Khyber Agency) to GGMS Kohi Barmole Mardan after  
proper approval of competent authority on her marriage in  
Mardan vide order dated 31/08/2000. (copy of the order dated  
31/08/2000 is Annex: "B").
4. That appellant was once again transferred from GGHS Kohi  
Barmol to GGHS Baghicha Dheri Mardan vide order dated  
18/02/2013. (Copy of order is attached as Annex: "C").
5. That private respondent namely Mst. Zeenat Begum D/o  
Ibrahim SET has been promoted to the post of SET teacher  
(BPS-16-) BUT after her promotion she was kept at said

school in which she was promoted without availability of SET post on political influence, while due to over strength of SET's teacher appellant is transferred from GGHS Baghicha Dheri Mardan to GGHS Zando Dheri Mardan vide impugned transferred order dated 28/03/2014 in fact 28/03/2015, which is illegal, against the law and facts. (Copy of the impugned transferred order is attached as Annex: "D").

10

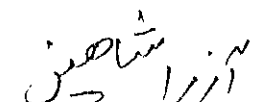
6. That appellant preferred an appeal before the Director of (E&SE) KPK Peshawar.
7. That order of respondent No.1 dated 28/03/2014 in fact 28/03/2015 is illegal, against law and facts on the following grounds:-


GROUNDS:-

- A. That impugned transferred of respondent No.1 is illegal, against law and facts.
- B. That appellant has not been completed her tenure at her post.
- C. That impugned transferred order is not in public interest nor in exigency of service.
- D. That impugned transferred order issued on the basis of political influence and with malafide intention, which is not sustainable in the eye of law and liable to be set aside.
- E. That impugned transfer order is frequent transfer which is depreciated by Apex supreme court of Pakistan in reported judgment (PLJ 1995 S.C P-629).

*It is therefore, humbly requested that on acceptance of the instant appeal, impugned transfer order dated 28/03/2014 in fact 28/03/2015 may please be set aside and appellant may please be allowed to continue her service at her post i.e GGHS Baghicha Dheri Mardan.*

Dated ~~24/4/2015~~  
24/4/2015

Appellant   
Azra Shaheen

Attested  


Through  
Yaqoob Khan advocate High

GOVERNMENT OF NWFP  
ESTABLISHMENT & ADMINISTRATION  
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) The normal tenure of posting shall be three years subject to the condition that for the officers/officials posted in unattractive areas the tenure shall be two years and for the hard areas the tenure shall be one year. The unattractive and hard areas will be notified by the Government.
- v) { }
- vi) While making postings/transfer from settled areas to FATA and vice-versa, specific approval of Governor, NWFP needs to be obtained  
  
While making postings/transfers of officers/officials up to BS-17, from settled areas to FATA and vice-versa approval of the Chief Secretary NWFP needs to be obtained. 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 NWFP shall be obtained.
- vi (a) 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.
- viii) No posting/transfers of the officer's/officials on detailment basis shall be made.

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) 1-4/2008/Vol-VI, dated 3-6-2008. Consequently authorities competent under the NWFP 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.  
Added vide Urdu circular letter No. SOR-VI(E&AD)1-4/2003, dated 21-09-2004

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 NWFP 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 3-1-2005.}

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) NWFP 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}

11/4

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 marks: a circle with '14', a circle with '15', and a circle with '16')*

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 NWFP  
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 NWFP

Endst. No. and date even.

Copy forwarded

- 1.
- 2.
- 3.
- 4.
- 5.

*Altogether Yours*

(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 NWFP 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, subject to strict



# بعدالت سندھ ہائی کورٹ

کورٹ فیس

مورخہ:

4 اگست

مقدمہ:

عزیزتہ عین

نام:

20 منجانب

سکرٹری ایجوکیشن

دعویٰ:

رسول

جرم:

## باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام اور سے لئے مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ حی کل کاروائی کا کاپی اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرانے اجراء اور وصولی چیک روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زراس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یک طرفہ یا اپیل کی برآمد ہوگی اور منسوخ دائر کرنے کی اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مذکور کے عمل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اسکا ساختہ برداشتہ منظور قبول ہوگا اور دوران مقدمہ میں جو خرچہ دہر جانہ التوائے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا اگر کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

المرقوم 4 ماہ 15 اگست 20

الع بد گواہ شہادہ الع بد

بمقام: اور کے لئے منظور ہے۔

Attested & Attested  
Laqub

عزیزتہ عین عین باجیس ڈھول سردان

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Appeal No 886/2014

Azra Shaheen

Appellant

VS

Secretary Education & Others

Respondents

**PARA WISE COMMENTS ON BEHALF OF RESPONDENTS**

Respectfully sheweth

**Preliminary Objections**

1. That the appellant has got no cause of action and locus standi to file the instant appeal.
2. That the instant appeals is incompetent in its present form , hence and liable to be dismissed.
3. That the instant appeal is not maintainable in the eye of law.
4. That the instant appeal is badly time barred.
5. That the instant appeal is liable to be dismissed on account of non joinder and misjoinder of necessary parties
6. That the instant appeal is based on malafide and the appellant has kept this Honourable Tribunal in dark.
7. That the appellant has not come to this Honourable court with clean hands.
8. That under section 10 of Civil Servant Act 1973 , 'Every civil servant shall be liable to serve any where in outside Pakistan ' and transfer is one of the incident and exigency of service and no one can remain posted at the same station.
9. That the appellant is transferred to the nearest place of her resident,

**ON FACTS**

1. Para 1 is correct .
2. Para 2 pertains to record hence no comments.
3. Para 3 pertains to record hence no comments.
4. Para 4 pertains to record hence no comments.
5. Para 5 is correct to the extent of promotion of the respondent No 3 to BPS 16 but the remaining Para is incorrect ,baseless and the appellant was transferred to the nearest adjustment place as the respondent No 3 belongs to that locality , hence adjusted at GGHS Baghicha Dheri hence denied.
6. Para 6 pertains to record hence no comments.
7. Para 7 is incorrect, baseless , against law and facts ,hence denied.

**ON GROUNDS**


- A. Para is incorrect , and transfer is part and parcel of service hence denied.
- B. Para B is incorrect and nearest and adjustment place was given to the appellant and respondent No 3 was adjusted at the GGHS Baghicha Dheri due to the belonging to that area , hence denied.

- C. Para C is incorrect, baseless and the transfer order has been made in good faith, in order to fulfil the natural justice , hence denied.
- D. Para D is incorrect, baseless , against law and facts and the appellant was transferred in good faith and in public interest , hence denied.
- E. Para E is related to the court verdict , hence no comments.
- F. Para F is incorrect , and the appellant was transferred to the nearest place from her home , hence denied.
- G. Para G is incorrect , baseless , and appellant is serving at BPS 16, hence denied.

Therefore it is humbly prayed that keeping in view the above mentioned facts , the instant appeal may kindly be dismissed with cost.

**Secretary**  
**E&SE Khyber Pakhtunkhwa Peshawar**

**Director**  
**E&SE Khyber Pakhtunkhwa Peshawar**

  
**District Education Officer(F)**  
**Mardan**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Appeal No.886/2015**

Mst Azra Shaheen \_\_\_\_\_ Appellant

V/S

Director E&SE Khyber Pakhtunkhwa & Others \_\_\_\_\_ Respondents

**REPLY TO APPLICATION OF SUSPENSION OF THE TRANSFER ORDER**

**Respectfully shweth:**

1. Para 1 pertains filing of the instant appeal before this Honorable Tribunal , hence no comments.
2. Para 2 is incorrect, the appeal in hand is meritless and there is no chance of its success hence denied.
3. Para 3 is incorrect, balance of convience lies in favour of the respondents, hence denied.
4. Para 4 is incorrect, baseless against law and facts , the so called impugned transfer order is according to law and in public interest and there is no irreparable loss in case of no granting injunction to the appellant hence denied.

Therefore It is humbly prayed that keeping in view the above mentioned facts, the application of suspension may kindly be dismissed.

Respondents

Through



**District Education Officer (F)  
Mardan**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

No. 125 ST

Dated 26 / 1 / 2016


To

The Director (E&SE),  
Peshawar.

Subject: - Judgement.

I am directed to forward herewith certified copy of Judgement dated 14.1.2016 passed by this Tribunal on subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR.

Service Tribunal  
Diary No. 1058  
Case No. 29-9-15

Appeal NO: 886 / 2015.

Mst: Azra Shaheen VS Director of  
E & SE) Peshawar etc.  
(Appellant) (Respondent.)

Subject: APPLICATION FOR RELEASE OF SALARY OF  
APPELLANT FOR THE MONTH OF SEPT: 2015  
AND ~~Aug~~ 2015.

RESPECTFULLY SHEWETH:

1. That above captioned case is fixed for today before this Honourable Court.
2. That on 12.08.2015 this Honourable Court has admitted the appeal of appellant and issued stay order in favour of appellant against Respondents.
3. That inspite of stay order issued by this Honourable Court, the Respondent NO. 2 ( (DEO) (F) stopped salary of appellant for the month of Sept: NO. 2015 and ~~Aug~~ 2015 without any reason, which is illegal, against law, facts and in violation of stay order issued by this Honourable Court.

4. That order of Respondent NO. 2 is illegal against law, fact and in violation of stay order issued by this Honourable Court and appellant is entitled for release of her salary.

It is, therefore, humbly requested that respondent NO. 2 (DED(G) Mardan my please be directed to release her salary for the month of Sept: 2015-<sup>15</sup> *Aug 2015.*

Appellant *Azra Shaheen*

(MST: AZRA SHAHEEN )

Dated: 22.09.2015

Through Council:

*Yacob Khan*  
( ( YACCOB KHAN )  
Advocate High Court at Distt:  
Court, Mardan.

AFFIDAVIT.

It is certified that constant of the above is true and correct to the best of my knowledge Belief. Moreover, nothing has been concealed by this honourable Court.

Appellant *Azra Shaheen*  
(MST: AZRA SHAHEEN )

~~M. AKBAR KHAN ADVOCATE  
High Court  
Distt. Court Mardan  
No \_\_\_\_\_ Dated: 20/09/15~~