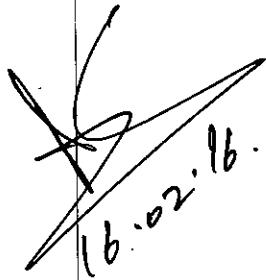


| S.No. of proceedings | Date of Order or proceedings. | Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary. |
|----------------------|-------------------------------|--|
| 1 | 2 | 3 |
| | 16.02.2016. | <p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR</u> <u>CAMP COURT ABBOTTABAD.</u></p> <p style="text-align: center;"><u>SERVICE APPEAL NO. 817/2015</u></p> <p>(Habib Shah-vs-Secretary Elementary and Secondary Education Department, Khyber Pakhtunkhwa, Peshawar and others).</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:</u></p> <p>Appellant in person, Mr. Shafiq-ur-Rehman, ADO alongwith Mr. Muhammad Saddique, Senior Government Pleader for official respondents No.1 to 3 and private respondent No.4 in person present.</p> <p>2. Habib Shah, hereinafter referred to as the appellant, has preferred the instant appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order 17.5.2013 vide which he was transferred from GMS Baffa Doraha to GMS Shanai Bala and private respondent No.4, Zia-ul-Haq, employed by NTS was adjusted at GMS Shanai Bala.</p> <p>3. Brief facts giving rise to the present appeal are that the appellant was serving as Arabic Teacher at GMS Shanai Bala which was inadvertently shown vacant by official respondents and, therefore, advertised and consequently private respondent No.4 was selected and appointed against the same through NTS. Aggrieved of the said order, appellant preferred departmental appeal which was not responded and hence the instant service appeal.</p> <p>4. Appellant and private respondent No.4 heard in person while learned Senior Govt. Pleader heard on behalf of official respondents and record perused.</p> |



16.02.16.

5. According to record as well as arguments of the parties including learned Senior Govt. Pleader, the post was inadvertently shown vacant and after the appointment of private respondent No.4 the official respondents were left with no option but to transfer the appellant from the said position so as to create a vacancy for private respondent No.4.

6. During the course of hearing private respondent No.4 informed the Tribunal that he would be having no objection if he is transferred to GMS Chaniel in place of appellant. On our query Mr. Shafiq-ur-Rehman, ADO informed the Tribunal that the said post is lying vacant and that the appellant has been posted against the same but he has not assumed the charge of the same.

7. A similar Appeal No.209/2015 titled "Fazal Rehman-vs-Secretary, Government of Khyber Pakhtunkhwa Education Department and others" had come up for hearing before this Tribunal wherein alike situation was considered and it was directed that the appellant in the said appeal be transferred to his original post while private respondent be adjusted against the vacant post subject to its availability and in case of non-availability at any other appropriate place.

8. We accordingly accept the instant appeal and direct that the appellant be transferred to GMS Shanai Bala and private respondent No.4, Zia-ul-Haq, be adjusted at GMS Chaniel and if the post is not available then respondent No.4 may be adjusted at any other appropriate place. The appeal is disposed of in the above terms. No order as to costs. File be consigned to the record room.


(Abdul Latif)
Member


(Muhammad Azim Khan Afridi)
16.02.16
Chairman

ANNOUNCED
16.02.2016

17.12.2015

Appellant in person and Mr. Shafique-ur-Rehman, ADO alongwith Mr. Muhammad Siddique, Sr.GP for official respondents present. None present for private respondent No. 4. Due to non-availability of D.B, appeal to come up for reply to application, rejoinder and final hearing before D.B on 16.2.2016 at Camp Court A/Abad. Status-quo be maintained.



Chairman
Camp Court A/Abad

17.08.2015

Appellant in person and Mr. Muhammad Tahir Aurangzeb, GP for official respondents present. Appellant submitted application for release of his salary Notice of the said application be issued to the respondents. To come up for written reply/comments on main appeal as well as reply/arguments on application on 14.10.2015 before S.B at camp court A/Abad. Status-quo be maintained.


Chairman

Camp Court Abbottabad

14.9.2015


Appellant in person, Mr. Shafiq-ur-Rehman, ADO along with Mr. Muhammad Tahir Aurangzeb, G.P for official respondents No.1 to 3 and private respondent No.4 in person present. Written reply by official respondents No.1 to 3 submitted. Private respondent No.4 submitted application for his adjustment at GMS Chaniyal and adjustment of appellant at GMS Shani Bala. Copy of the said application supplied to the appellant as well as official respondents for reply to application as well as rejoinder and final hearing before D.B on 22.10.2015 at Camp Court A/Abad. Status-quo be maintained.


Chairman

Camp Court A/Abad

22.10.2015

Appellant in person and Mr. Shafiq-ur-Rehman ADO along with Mr. Muhammad Tahir Aurangzeb, G.P for official respondents present. Reply to application not submitted. Requested for adjournment. To come up for reply to application, rejoinder and final hearing before D.B on 17.12.2015 at Camp Court A/Abad. Status-quo be maintained.


Chairman

Camp Court A/Abad.

27.07.2015

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was serving as Arabic Teacher and posted at GMS Shanni Bala vide order dated 17.5.2013. That the said post was later on shown vacant and private respondent No. 4 Zia-ul-Haq AT was transferred against the said post vide order dated 20.3.2015. That to create the vacancy and to accommodate private respondent No. 4 appellant was pre-maturely transferred vide impugned order dated 3.4.2015 to GMS Chinal regarding which he preferred departmental appeal on 13.4.2015 which was not responded. That the appellant instituted a Civil Suit which was, however, withdrawn for want of jurisdiction and hence the instant service appeal on 10.7.2015.

That the order of transfer of respondent No. 4 in place of appellant was malafide and that no vacant post was available for the posting of respondent No. 4 and, moreover, the impugned order of transfer of the appellant is pre-mature and not in the interest of public service. That the appellant has not yet relieved the charge of the post.

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 17.8.2015 at Camp Court Abbottabad as the appeal pertains to the territorial limits of Hazara Division. Notice of stay application be also issued for the date fixed. Status-quo be maintained.


Chairman



Appellant Deposited
Security & Process Fee



Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 817/2015

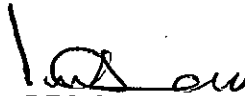
| S.No. | Date of order Proceedings | Order or other proceedings with signature of judge or Magistrate |
|-------|---------------------------|--|
| 1 | 2 | 3 |
| 1 | 15.07.2015 | <p>The appeal of Mr. Habib Shah resubmitted today by Mr. Muhammad Asif Yousafzai Advocate may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"> REGISTRAR</p> |
| 2 | 16-7-15 | <p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>27-07-2015</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> |

The appeal of Mr. Habib Shah AT GMS Shanin Bala Mansehra received to-day i.e. on 10.07.2015 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Annexure-D of the appeal is illegible which may be replaced by legible/better one.
- 2- Address of respondent No. 4 is incomplete which may be completed according to the Khyber Pakhtunkhwa Service Tribunal rules 1974.

No. 1061 /S.T,

Dt. 10/7 /2015


REGISTRAR —
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. M.Asif Yousafzai Adv. Pesh.

*Re-submitted after removing the
objections 1 & 2.*



BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 817 /2015

Habib Shah

V/S

Education Deptt:

INDEX

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| 1. | Memo of appeal | ----- | 1- 4 |
| 2. | Stay application | ----- | 5-6 |
| 3. | Copy of order dated (17.5.2015) | A | 7 |
| 4. | Copy of arrival report | B | 8 |
| 5. | Copy of order dated (20.3.2015) | C | 9-10 |
| 6. | Copy of order dated (3.4.2015) | D | 11 |
| 7. | Copy of departmental appeal | E | 12-14 |
| 12. | Copy of posting/transfer policy | F | 15-21 |
| 13. | Copy of circular . | G | 22 |
| 14. | Vakalat nama | ----- | 23 |

APPELLANT

THROUGH:


(M. ASIF YOUSAFZAI)


(TAIMUR ALI KHAN)

ADVOCATES, PESHAWAR.

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 817 /2015

Habib Shah, AT,
GMS Shan ^A Bala, Mansehra.

A.W.P. Province
Service Tribunal
Diary No. 826
Dated 10-7-2015

(Appellant)

VERSUS

1. The Secretary (E&SE) KPK, Peshawar.
2. The Director (E&SE) KPK, Peshawar.
3. The DEO (M)(E&SE) Mansehra.
4. Zia Ul Haq, AT, GMS Shan ^A Bala, Mansehra.

(Respondents)

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 03.04.2015 AND NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 03.04.2015 MAY BE SET ASIDE BEING PASSED IN THE VIOLATION OF POSTING/TRANSFER POLICY, PREMATURE. THE RESPONDENT DEPTT: MAY FURTHER PLEASE BE DIRECTED NOT TO TRANSFER THE APPELLANT PREMATURELY AND IN VIOLATION OF LAW AND RULES. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

Filed to-day
Registrar
10/7/15

re-submitted to-day
and filed.

Registrar
18/7/15

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant joined the Education Department as AT teacher on dated 12.3.1986 and has performed his duty in different Schools to best of his abilities.
2. That the appellant was transferred from GMS Baffa Doraha to GMS Shanni Bala vide order dated 17.5.2013 and took over charge there on dated 20.5.2013 and performed his duty there up to the entire satisfaction of his superior and no complaint has been filed against him. (copy of order dated 17.5.2013 and arrival report are attached as Annexure-A&B)
3. That the education department of District Mansehra wrongly showed the post of appellant as vacant and made appointment of AT Teacher through NTS and the private respondent was adjusted on that posts of appellant vide order dated 20.3.2015 and the appellant was transferred from GMS Shanin Bala to GMS chlnal vide order dated 3.4.2015 without completing his normal tenure at GMS shanin Bala. (copy of order dated 20.3.2015 and 3.4.2015 are attached as Annexure-C&D)
4. That against the order dated 3.4.2015 the appellant filed departmental appeal on 13.4.2015, which was not responded within the statutory period of ninety days. (Copy of departmental appeal is attached as annexure-E)
5. That in the meanwhile the appellant also filed a civil suit in the local civil court and the civil court was kind enough to grant stay in favour of appellant, therefore the appellant has not yet relinquished the charge of the post. The said suit was rejected for jurisdiction by the civil court .
6. That the appellant has no other remedy but come this august Tribunal on the basis of following grounds amongst others.

30 GROUNDS:

- A) That the impugned order dated 3.4.2015 is against the law, facts, norms of justice, premature, violation of Govt: circulars, therefore not tenable and liable to be set aside.
- B) The transfer of the appellant is in total violation of Govt: posting transfer policy and circular dated 27.2.2013 based on the Anita Turab's case. Thus the impugned order is liable to be set-aside on this score alone. (Copies of policy and circular is attached as Annexure- F&G)
- C) That there is no vacant of AT in GMS shanin Bala and the appellant was working as AT in GMS but despite that respondent No. 4 was adjust by showing the appellant's post as vacant at GMS Shanin Bala.
- D) That the respondent No. belong to UC of GMS Chlnal and also want to go to GMS Chlnal, but the EDO(M) did allow him to join GMS Chlnal.
- E) That the impugned order is not based on public interest nor any exigencies of service were existed but just to disturb the appellant to show his seat vacant and adjust respondent No.4 on appellant seat.
- F) The impugned transfer order is also premature as the appellant has not completed his tenure at GMS Shanin Bala.
- G) That the appellant is at the verge of retirement and according to posting transfer policy *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 District of their domicile and be allowed to serve there till the retirement.*

- H) That according to judgment of Supreme Court the departmental appeal of the appellant should be responded as reported in 2011 SCMR-01, but despite that no action was taken on the departmental appeal of appellant which proves malafide on the part of respondent Deptt;.
- I) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore most humbly prayed that the appeal of the appellant may be accepted as prayed for.



APPELLANT

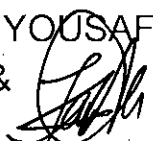
Habib Shah

THROUGH:



M.ASIF YOUSAFZAI

&



TAIMUR ALI KHAN

(ADVOCATES
PESHAWAR)

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2015

Habib Shah

V/S

Education Deptt:

**APPLICATION FOR SUSPENDING THE OPERATION OF ORDER DATED
03.04.2015 TILL THE DISPOSAL OF MAIN APPEAL.**

R. SHEWETH.

1. That the appellant has filed an appeal along with this application in which no date is fixed so far.
2. That impugned transfer order is passed prematurely and in violation of posting transfer policy.
3. That the respondent No.4 was adjusted on seat of appellant which was wrongly shown vacant, but the appellant was working on this seat since 17.5.2013 which disturb the appellant without on the fault of appellant.
3. That the grounds of main appeal may also be considered as integral part of this application.
4. That the appellant has a good prima facie case and all the three ingredients are in favour of the appellant.

It is therefore most humbly prayed that the operation of the order dated 03.04.2015 may be suspended till the decision of main appeal.

[Signature]
[Signature]
APPELLANT

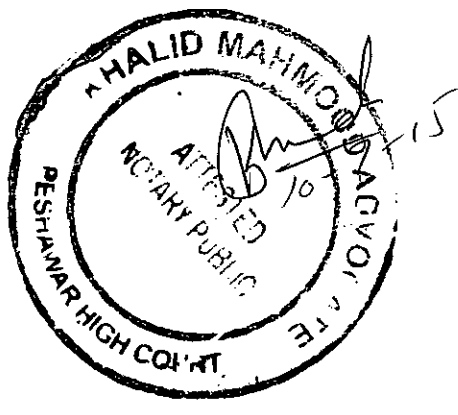
THROUGH:

[Signature]
M.ASIF YOUSAFZAI
& *[Signature]*
TAIMUR ALI KHAN
(ADVOCATES PESHAWAR)

AFFIDAVIT

It is affirmed that the contents of this application are true and correct.

[Signature]
DEPONENT



A (7)

OF THE DISTRICT EDUCATION OFFICER (MALE) MANSEHRA

CORRIGENDUM

Consequent upon the acceptance of appeals, the following amendments in the Notification AT issued office Ends: No.4078-145/Estt: (M) Prom: Senior AT/ dated 02-05-2013 is hereby made in the interest of public service to the existing terms & conditions with effect from even No.& date.


| S.# | S.# in Notif: | Name & Desig: | BPS | Place of posting in Adjustment order | Place of posting to be read as | Remarks |
|-----|---------------|---------------------|-----|--------------------------------------|--------------------------------|-----------------------|
| 1 | - | Abdul Qayum AT | 15 | GMS Shanni Bala | GMS Baffa Dorafa | MT |
| 2 | 41 | S.Habib Shah AT | 15 | GMS Baffa Doraha | GMS Shanni Bala | MT |
| 3 | | Shafiq Ur Rehman AT | 16 | GHS Batdoga | GHS Trappi | V.No 4 |
| 4 | | Maqsood Ur Rehman | 15 | GHS Trappi | GMS Trarri | Vi.No5 |
| 5 | 59 | Ummer Kharab | 15 | GMS Trarri | GHS Batdoga | V.No3 |
| 6 | 38 | Faqeer Zaman AT | 15 | GHS Shergarh | GHS Kochatti | Post already occupied |

Sd/-
DISTRICT EDUCATION OFFICER
(MALE) MANSEHRA

Endst: No. 4470-73 /Estt: (M) Corrig: AT /Dated Mansehra the 17/5/ 2013.

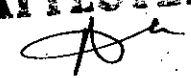
- Copy forwarded for information and necessary action to the:
1. Principal /IM School concerned.
 2. District Accounts Officer Mansehra
 3. B&AO local office
 4. Officials concerned.

or


MUHAMMAD ILYAS
 Civil Judge-III Judicial Magistrate
 No. 59-84-15

BY: DISTRICT EDUCATION OFFICER
(MALE) MANSEHRA

ATTESTED

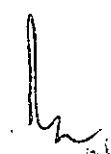


ARRIVAL REPORT

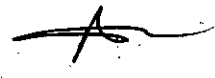
B (8)

Reference DEO (M) Mansehra Endst. No. 4470-73 |
dated 17-05-2013.

In the light of above Mr. Syed Habib Shah has
arrived his duty against the post of Abdul Qayum A
at GMS Shanai Bala on 20-05-2013 (A/N).

08-2

M. J. A. N. M. S. (C) U. P. D. S.
Civil Judge-VIII Judicial Magistrate
Mansehra
5.11.15


Head Master
G.M.S Shanai Bala
Mansehra

ATTEST




OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) MANSEHRA

APPOINTMENT

Consequent upon recommendation of the Departmental Selection Committee, appointment of the following candidates are hereby ordered against the post of AT School based in BPS-15 (Rs.8500-700-29500) @ Rs. 8500/- fixed plus usual allowances as admissible under the rules on adhoc basis on Contract under the existing policy of the Provincial Government, in Teaching Cadre on the terms and condition given below with effect from the date of their taking over charge :-

| S.# | Name | Father's Name | Domicile | Permanent Address | Place of posting | Score |
|-----|-----------------|----------------------------|----------|--------------------------------|------------------|--------|
| 1 | Ahmad Mujtaba | Muhammad Younis | Mansehra | Bherkund Mansehra | GHS Paris | 122.27 |
| 2 | Niaz Muhammad | Khalil ur Rehman | Mansehra | Shinkiari Mansehra | GMS Budal Gran | 121.00 |
| 3 | Rafaqat Ali | Asmat Ali Khan | Mansehra | Bailian Tehsil Oghi | GMS BeensBeerian | 119.19 |
| 4 | Iltramull Haq | Ghulam Sarwar | Mansehra | Bailian Tehsil Oghi | GMS LamiBattal | 115.16 |
| 5 | Shams ul Haq | Muhammad Yaqoob | Mansehra | Bhangian Tehsil Balakot | GMS Dhodial | 114.46 |
| 6 | Muhammad Arshed | Muhammad Ibrahim | Mansehra | Garlat Tehsil Balakot | GHS Dogah | 114.35 |
| 7 | Muhammad Asif | Muhammad Farid | Mansehra | Jabori Tehsil Mansehra | GMS Kaiyan | 113.74 |
| 8 | Zia ul Haq | Ghulam Jan | Mansehra | RehmKot Tehsil Oghi | GMS ShaninBala | 113.14 |
| 9 | Muhammad Rahim | Muhammad Naem | Mansehra | Attar Shisha Tehsil Mansehra | GMS Jagori | 112.96 |
| 10 | AbdusSaboer | Molvi Abdul Ghafoor Rashid | Mansehra | SohachBatakundi Tehsil Balakot | GMS NallaJabar | 111.76 |

TERMS & CONDIATIONS.

1. NO TA/DA etc is allowed.
2. Charge reports should be submitted to all concerned in duplicate.
3. Appointment is purely on temporary & contract basis initially for one year with effect from the date of issue.
4. They should not be handed over charge if he exceeds 35 years or below 18 years of age. Age relaxation case may be submitted to the competent authority.
5. Appointment is subject to the condition that the certificates/documents must be verified from the concerned authorities by the DEO any one found producing bogus Certificate will be reported to the law enforcing agencies for further action.
6. His services are liable to termination on one month's notice from either side. In case of resignation without notice his one-month pay/allowances shall be forfeited to the Government.
7. Pay will not be drawn until and unless a certificate to the effect by DEO is issued that his certificates are verified.
8. The Principal / Headmaster School concern is directed to submit their Degrees /Certificates to this office etc for verification from Board /University/Institutions before any payment made to them.
9. He should join his post within 10 days of the issuance of this notification. In case of failure to join their post within 10 days of the issuance of this notification, his appointment will expire automatically and no subsequent appeal etc shall be entertained.
10. Health and Age Certificate should be produced from the Medical Superintendent Mansehra before taking over charge.
11. He will be governed by such rules and regulations as may be issued from time to time by the Govt.
12. His services shall be terminated at any time, in case his performance is found unsatisfactory during his contract period. In case of misconduct, he shall be preceded under the rules framed from time to time.

ATTESTED

10

13. His appointment is made on School based, He will have to serve at the place of posting, and His service is not transferable to any other station.
14. Before handing over charge once again their document may be checked if they have not the required qualifications they may not be handed over charge.
15. Before handing over charge he will sign an agreement with the department, otherwise this order will not be valid.
16. The competent authority reserve to right to rectify the error / omission, if any noted /observed at any stage in instant order issued erroneously.

(Abdullah)

DISTRICT EDUCATION OFFICER,
(MALE)MANSEHRA

Endst: No. 4711-26/File No. ___/AT/Adhoc /appointment/Dated Mansehra the 20th March 2015

Copy forwarded for information and necessary action to the: -

1. The Director, Elementary & Secondary Education Peshawar.
2. District Accounts Officer Mansehra
3. Principal / Head Master School concerned
4. PA to Secretary Khyber Pakhtunkhwa E&SE Department Peshawar.
5. Official Concerned.
6. Office File

20/3/15
Dy: DISTRICT EDUCATION OFFICER,
(MALE)MANSEHRA

RECEIVED

for

Answer: D

Best copy

OFFICE OF DISTRICT EDUCATION OFFICER (M) MANSEHRA

ADJUSTMENT

The competent authority Elementary and Secondary Education Mansehra pleased to transfer/adjust the following AT/SAT due to appointment of NTS recruited teachers for the best interest of public service with immediate effect.

| S# | Name | Present school | To | Remarks |
|----|--------------------|-----------------|------------------|-------------|
| 1 | Shaukat, AT | GMS Badalgran | GHS Khairabad | A/V Post |
| 2. | S. Habib Shah, AT | GMS Shanin Bala | GMS Chlnal | A/V Post |
| 3. | Fazal Rahim, SAT | GHS Khabal Bala | GHHS Bohali | A/V Post |
| 4. | Mazir Ali Shah, AT | Lammi Bala | GHHS Khabal Bala | Via S No. 1 |
| 5. | Abdur Raziq, SAT | GHS Mandagucha | GHS MM Pol | A/V Post |
| 6. | Shabir Shah, AT | GMS Nala Jabar | GHS Mandagucha | Via S.No. 5 |

Note:- No. TA/DA is allowed.

Charge reports should be submitted to all concerned.

-Sd-
DISTRICT EDUCATION OFFICER
(MALE) MANSEHRA

Endst: No. _____ / Estt:(M)Dated Mansehra The _____ /2015

Copy to:-

1. The District Accounts Officer Mansehra.
2. The Principal/Headmaster School Concerned.
3. The B&AO Local Office.
4. Official concerned.

-Sd-
DY: DISTRICT EDUCATION OFFICER
(MALE) MANSEHRA

D (11)

OFFICE OF THE DISTRICT EDUCATION OFFICER (M) MANSEHRA
ADJUSTMENT

The competent authority Elementary & Secondary Education Mansehra planned to transfer/adjust the following AT/SAT due to appointment of NTS recruited teachers for the best interest of Public Service with immediate effect.

| S# | Name | Present School | To | Remarks |
|----|-------------------|-------------------|-----------------|------------|
| 1. | Shookat AT | GMS Badal Gran | GHS Khairabad | AV Post |
| 2. | S. Habib Shah AT | GMS Ghann Bala | GMS Chinal | AV Post |
| 3. | Fazal Rahim SAT | GHS Khabal Bala | GHS Behall | AV Post |
| 4. | Mazir Ali Shah AT | GMS Laimoi Bantal | GHS Khabal Bala | Via S.No 4 |
| 5. | Abdul Haq SAT | GHS Mandagucha | GHS M.M. Pol | AV Post |
| 6. | Shabir Shah AT | GMS Nala Jabarf | GHS Mandagucha | Via S.No 5 |

Note: No TA/DA is allowed

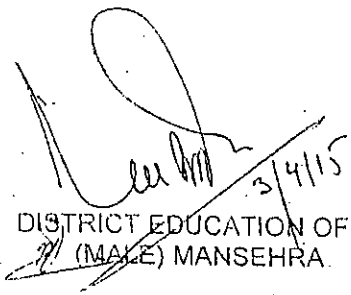
Charge reports should be submitted to all concerned

Chinal

-Sd-
DISTRICT EDUCATION OFFICER
(MALE) MANSEHRA

Endst: No 5257-64 /Estt:(M)/Dated Mansehra The 03/4 /2015
Copy to:-

1. The District Accounts officer Mansehra.
2. The Principal/Headmaster School Concerned.
3. The B&AO Local Office.
4. Official concerned.


DY: DISTRICT EDUCATION OFFICER
(MALE) MANSEHRA

ATTESTED
[Signature]

خدمت جناب ڈائریکٹر محکمہ تعلیم صوبہ خیبر پختونخواہ پشاور

عنوان

ڈیپارٹمنٹل ایپل بر خلاف حکم نامہ نمبری 64-5257 مورخہ 03-04-2015

عکس ورد سے سائل / ایپلٹ کو گورنمنٹ مڈل سکول شنی بالا سے

محکمہ ای پالسی کے خلاف اور خلاف قانون دروازہ خلاف الصاف کے

ٹرانسفر گورنمنٹ مڈل سکول خیال ادلی میں تعینات کرنا جائز نہیں

استدعا

استدعا یہ سائل کی ایپل درخواست منظور کر کے پوسٹ حکم نامہ

نمبری 64-5257 نمبرہ 03-04-2015 کو منسوخ کرنا جائز ہے

قرین الصاف ہے

جناب عالی ڈیپل ممبر ہے

یہ کہ سائل یونین کونسل ڈیپو ڈیال تحصیل و ضلع مالک پورہ مارکیٹ شنی سکول

ہے جو کہ عرصہ زائد از 20 سال سے محکمہ تعلیم میں اپنے فرائض منصبی بہترین

طو پر سر انجام دے رہا ہے

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2۔ یہ کہ مدعی عرصہ زائد از 20 سال سے مختلف عہدہ دروازہ اور مشنل گزار

علاقہ جات میں تعینات رہا ہے اور اپنے فرائض منصبی احسن طریقہ سے سر انجام

دیئے جو دروازہ اسٹیٹ پر تعینات رہنے کے بعد بالآخر سائل کو

بالآخر حکم نمبرہ 20-5-2013 گورنمنٹ مڈل سکول شنی بالا میں تعینات

کیا گیا جو سب سے اس تفتیشی / ٹرانسفر کے بعد سے لے کر تا حال سکول مذکورہ میں اپنے فرانسس مہدی احسن طریقت سے سرانجام دے رہا ہے جبکہ سکول مذکورہ میں کوئی بھی کام نہ ہے۔ (متم تفتیشی لکھی ہے)

3۔ یہ سب سے پہلے بطور سربراہی پیپر گورنمنٹ مڈل سکول شہنشاہی بالا میں اپنی خدمات سرانجام دے رہا ہے جبکہ ڈسٹرکٹ ایجوکیشن آفیسر صاحبہ رزانہ کوٹلیوی علم لکھا۔ اس کے باوجود مذکورہ بلا سیٹ کو حالیہ طور پر کرتے ہوئے اس پر NTIS امتحان منعقد کے جو عقد کاروائی خورق ضابطہ و الفاف و خورق واقع طور پر عمل میں راتے ہوئے حکم نمبری 26-4711-2015-03-20 طبعی رد سے مذکورہ سیٹ پر نئے معلم کی تفتیشی کی گئی جو کہ سرانجام دیا گیا ہے (متم خورق 15-3-2015 لکھی ہے)

4۔ یہ کہ جب سب سے معلم میں مذکورہ سیٹ پر نئے معلم کی تفتیشی کی جا رہی ہے اس کے ساتھ ساتھ اس کے خاتم سے والیہ کیا کہ مذکورہ سیٹ حالیہ ہے بلکہ سب سے پہلے سے تفتیشی شدہ میں تو جناب ڈسٹرکٹ ایجوکیشن آفیسر صاحبہ رزانہ مالکنہ سے خورق الفاف و خورق قانون دروازہ، خورق عمومی بالکلیہ کے خورق سب سے ٹرانسفر آڈر مٹم نامہ نمبری 64-2557-2015-04-03 لکھا دیا جس کے تحت سب سے گورنمنٹ مڈل سکول شہنشاہی بالا سے گورنمنٹ مڈل سکول خیال ادلی میں تفتیشی کیا گیا۔ (متم خورق 15-4-2015 لکھی ہے)

5۔ یہ کہ گورنمنٹ مڈل سکول شہنشاہی بالا میں کبھی سربراہی پیپر کی پوسٹ حالیہ ہی نہیں ہوئی جبکہ سب سے ایجوکیشن مذکورہ پوسٹ پر مورخہ 20-05-2013 سے اپنے فرانسس مہدی احسن طریقت سے سرانجام دے رہا ہے جبکہ منہ لولکھا پوسٹ حکم مذکورہ نمبری 64-2557-2015 لکھی ہے

جس سے بہ امر روز روشن کی طرح عیاں ہوتا ہے کہ سبٹ مذکورہ حالی نہ تھی
بلکہ مسائل تقنیات شروع تھے یوں اس پر NTS امتحانات کرانا اور اسی تسلسل
میں مسائل کا اثر السفر کرنا امر غلط، باطل من ابتداء، خلاف قانون و واقع
خلاف انصاف ہے کہ جو قابل منسوخی ہے۔

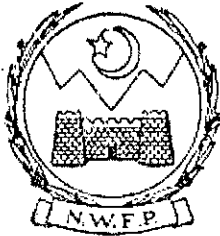
6 یہ کہ مسائل کی بطور عربی ٹیچر گورنمنٹ مڈل سکول شش ماہ میں تقیاتی 13-05-20

کو پورٹی اور مسائل کا مذکورہ سکول میں تقیاتی کا Tenure بھی پورا نہیں ہوا
معاہدہ بالیسی حکمہ تعلیم کسی بھی سکول میں کم از کم عرصہ تقیاتی تین سال متدرج ہے
بدین دھبہ بھی حکم حمرہ 15-04-03 نمبر 5257-64 قابل منسوخی ہے

7 یہ کہ مسائل یونین کونسل ڈیپوڈ ہال کا رہائشی ہے اور گورنمنٹ مڈل سکول شش ماہ
کے قریب سکونت ہے جبکہ مذکورہ سکول میں نئے عربی ٹیچر حسب قانون اوگی سے ہے
کو تقیاتی کیا گیا ہے جبکہ مسائل کی اثر السفر گورنمنٹ مڈل سکول اوگی کا پریکٹس ہے
جبکہ مسائل اور نئے معلم دونوں کیلئے وقت پر سکول اس میں سہولت اسی میں
ہے کہ مذکورہ حکم نمبر 5257-64 کو منسوخی فرمایا جائے جو کہ زمین انصاف ہے

اس سے کہ یہ مسائل کی اپیل منظور فرمائی جوش حکم حمرہ 15-04-03 نمبر 5257-64 منسوخ فرمایا جائے
المرحوم

سید حبیب شاہ ولد شاہ عمران عربی ٹیچر سکول گورنمنٹ مڈل شش ماہ بالا مالک پورہ



**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.

1 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.

2 Added vide Urdu circular letter No. SOR-VI(E&AD)1-4/2003, dated 21-09-2004

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- 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
¹DCOs 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 NWFP 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 column 2 thereof:

| Outside the Secretariat | | |
|-------------------------|---|---|
| 1. | Officers of the all Pakistan Unified Group i.e. DMG, PSP 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- |
| In the Secretariat | | |
| 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: | |

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

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| | |
|--|---|
| a) Within the same Department | Secretary of the Department concerned. |
| b) To and from an Attached Department | Secretary of the Dept 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. |

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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.

.....

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 SECREARY
GOVERNMENT OF NWFP

Endst. No. and date even.

Copy forwarded

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- 2.
- 3.
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5.

(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 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 28th 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;

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[Signature]

- 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 86-2004.
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}

The competent authority has decided 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 NWFP Govt Servants (Conduct) Rules 1987 shall be proceeded against under the NWFP Removal from Service (Special Powers) Ordinance 2000. As required under the NWFP 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 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}.

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 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 to the parent organization of the participant from where the individual had applied. This will be in 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 then 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

Placement Policy has been made part of the posting/transfer policy vide Urdu circular No.SOR-VI(E&AD)1-4/06. dt 9-2-2007

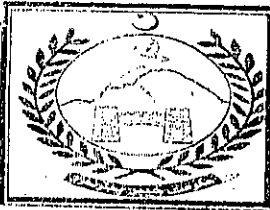
officers, will be of immense value to bring about a qualitative change in the training institutions. The following proposals are made in this regard:

- 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 participant will decline/represent against his/her posting.

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[Signature]



GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

(REGULATION WING)

NO. SOR.VI (E&AD)1 -4/2005/Vol-II

Dated Peshawar, 27th February, 2013

Government Department
of Khyber Pakhtunkhwa
Dated 28-2-2013

To
S. Javed

1. The Additional Chief Secretary (P&D) Khyber Pakhtunkhwa.
2. The Additional Chief Secretary (FATA) Khyber Pakhtunkhwa.
3. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
4. All Commissioners in Khyber Pakhtunkhwa.

Subject: CONSTITUTION PETITION NO.23 OF 2012 OUT OF SUO MOTO CASE NO. 3/2012 (PETITION BY MS. ANITA TURAB FOR PROTECTION OF CIVIL SERVANTS REGISTERED UNDER ARTICLE 184 (3) OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973.)

Sir,

I am directed to refer to the subject noted above and to state that the Supreme Court of Pakistan vide the subject cited judgment has enunciated the following principles of Law with regard to protection and conduct of civil servants.

- Appointments, Removals and Promotions:** Appointments, removals and promotions must be made in accordance with the law and the rules made thereunder, 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.
- Tenure, Posting and Transfer:** When the ordinary tenure for a posting has been specified in the law or rules made thereunder, such tenure must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable.

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- (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) **OSD:** Officers should not be posted as OSD except for compelling reasons, which must be recorded in writing. If at all an officer is to be posted as OSD, such posting should not exceed 03 months. If there is a disciplinary inquiry going on against him/her such inquiry must be completed at the earliest. The officer on special duty may be posted against a post of his/her equivalent pay scale/grade within 03 months of his/her order as OSD.

2. I am, therefore, directed to request you to note the above principles of law for strict compliance.

Yours faithfully,

naizam
 (NAJ-MUS-SAHAR)
 SECTION OFFICER (REG-VI)

Encl: as above.

A copy is forwarded to:-

1. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. The Secretary Provincial Assembly, Khyber Pakhtunkhwa.
4. The Accountant General, Khyber Pakhtunkhwa.
5. The Registrar, Peshawar High Court, Peshwar.
6. The Secretary Khyber Pakhtunkhwa, Public Service Commission.
7. All Addl: Secretaries Establishment & Administration Department.
8. All Deputy Secretaries in Establishment & Administration Department.

naizam
 SECTION OFFICER (REG-VI)

VAKALAT NAMA

NO. _____/20

IN THE COURT OF Service Tribunal, Peshawar

Habib Shah

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Education Department

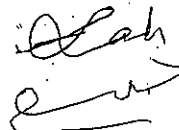
(Respondent)
(Defendant)

I/We Habib Shah

Do hereby appoint and constitute **M.Asif Yousafzai, Advocate, Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

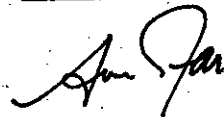
I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20



(CLIENT)

ACCEPTED




M. ASIF YOUSAFZAI
Advocate

M. ASIF YOUSAFZAI
Advocate High Court,
Peshawar.

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building,
Khyber Bazar Peshawar.
Ph.091-2211391-
0333-9103240


TAIMUR ALI KHAN
Advocate

کدالت جناب محمد رفیع صاحب سرسبز بیونل شہاد اور کورٹ ہائیکورٹ لہور۔

درخواست براد ہرمل اصناف اور سرائی گورنر

جناب عالی . درخواست ذیل ہے کہ

میں سائل گورنمنٹ ہائر سکول شہنشاہی باغ ضلع ہائیکورٹ میں بطور عربی معلم

فرائض سر انجام دے رہا ہوں . ای. ڈی. ای. او ہائیکورٹ میں سائل والی

پوسٹ کو کافی طویل عرصے سے ۷۰۰۰۰ روپے ماہانہ سالاہی کے ساتھ ساتھ

تین ہفتے دربارہ . سائل نے اس نا انصافی اور اس غیر قانونی آرڈر کے خلاف

سول کورٹ ہائیکورٹ سے www.maqor.gov.pk حاصل کیا . جو کہ $\frac{27}{2015}$ کے

اور غیر رقم ہو گیا . اس کے بعد سرسبز بیونل شہاد سے علم اسماعیلی حاصل کیا

ہوا ہے . جس کی تصدیق کالی ای. ڈی. ای. او ہائیکورٹ کو سنائی دی . ڈائری

اپوزیشن نے بھی ای. ڈی. ای. او ہائیکورٹ کو زبانیا طور پر کہا . اس کے

کو اپنی پوسٹ (سٹی) پر کام کرنے دیا . سائل سول کورٹ ہائیکورٹ اور ڈائری

اپوزیشن کے زبانی اصناف پر مہاراجہ ای. ڈی. ای. او ہائیکورٹ کی تنخواہ لیا رہا لیکن

ای. ڈی. ای. او ہائیکورٹ نے باوجود تمام باتوں کے سائل کی جو لائی کی تنخواہ

سول کورٹ ہائیکورٹ اور سرسبز بیونل شہاد کے علم اسماعیلی کی طرف ورنہ کی ہے

انہی سائل درخواست گزار صلیب سائل کی ماہ جو پوری سے تنخواہ جاری کرنے کے

اصناف سے حاصل ہونے کے لئے درخواستیں سائل کے پاس آگئے ہیں

۱۷-۵۸
۱۵

محمد رفیع صاحب سرسبز بیونل شہاد اور کورٹ ہائیکورٹ لہور

| S.No of proceedings | Date of Order or proceedings. | Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary. |
|---------------------|-------------------------------|--|
| 1 | 2 | 3 |
| | 16.02.2016 | <p style="text-align: center;"><u>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR</u> <u>CAMP COURT ABBOTTABAD.</u></p> <p style="text-align: center;"><u>SERVICE APPEAL NO. 817/2015</u></p> <p>(Habib Shah-vs-Secretary Elementary and Secondary Education Department, Khyber Pakhtunkhwa, Peshawar and others).</p> <p style="text-align: center;"><u>JUDGMENT</u></p> <p style="text-align: center;"><u>MUHAMMAD AZIM KHAN AFRIDI, CHAIRMAN:</u></p> <p>Appellant in person, Mr. Shafiq-ur-Rehman, ADO alongwith Mr. Muhammad Saddique, Senior Government Pleader for official respondents No.1 to 3 and private respondent No.4 in person present.</p> <p>2. Habib Shah, hereinafter referred to as the appellant, has preferred the instant appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order 17.5.2013 vide which he was transferred from GMS Baffa Doraha to GMS Shanai Bala and private respondent No.4, Zia-ul-Haq, employed by NTS was adjusted at GMS Shanai Bala.</p> <p>3. Brief facts giving rise to the present appeal are that the appellant was serving as Arabic Teacher at GMS Shanai Bala which was inadvertently shown vacant by official respondents and, therefore, advertised and consequently private respondent No.4 was selected and appointed against the same through NTS. Aggrieved of the said order, appellant preferred departmental appeal which was not responded and hence the instant service appeal.</p> <p>4. Appellant and private respondent No.4 heard in person while learned Senior Govt. Pleader heard on behalf of official respondents and record perused.</p> |

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Appeal No.817/2015

Habib ShahAPPELLANT

VS

District Education Officer Elementary & Secondary Education (Male) Mansehra
and Other.....

.....RESPONDENTS

APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT. 1974.

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Service Appeal

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**Before Khyber Pakhunkhwa Service
Tribunal Peshawar.**

Appeal No 817/2015

Habib Shah.....Appellant

VERI

1.The Secretary(E & SE) KPK ,Peshawar.

2.The Director(E & SE) KPK ,Peshawar

3.The DEO(M) Mansehra

4.Zia ul Haq AT ,GMS Shanin Bala,Mansehra

....Respondents

Service Appeal

PARA WISE COMMENTS ON BEHALF OF RESPONDENTS No.1,2 & 3 AS

UNDER:-

PRELIMINARY OBJECTIONS.

1. That the Appellant is not aggrieved person .
2. That the Appellant has got no cause of action/locus standi to file the instant appeal.
3. That the appeal is not maintainable in the present circumstances of the issue.
4. That the appellant has concealed the material facts from Honorable Service Tribunal.
5. That the appeal is time barred and not maintainable in eye of Law.
6. That the appeal is groundless and based on malafide, hence the same is liable to be dismissed.
7. That the appellant is estopped by his own conduct.
8. That the appeal is against the fact, prevailing rules and Law.

**Before Khyber Pakhunkhwa Service
Tribunal Peshawar.**

Appeal No 817/2015

Habib Shah.....Appellant

VERISUS

1.The Secretary(E & SE) KPK ,Peshawar.

2.The Director(E & SE) KPK ,Peshawar

3.The DEO(M) Mansehra

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7. That the appellant is estopped by his own conduct.
8. That the appeal is against the fact, prevailing rules and Law.

FACTUAL OBJECTIONS

1. Para No.1 is incorrect.
2. Para No.2 is correct ,to the extent that the appellant was transferred to GMS Shanin on 17-05-2013.
3. Para No. 3 is incorrect, the appellant is transferred after normal tenure.
4. Para No. 4 is incorrect , need proof.
5. No comments

GROUNDS

- A. Para A is incorrect, the appellant was transferred after spending 2 year normal tenure.
- B. Para B is incorrect. The transfer was made as per rule and policy.
- C. Para C is incorrect and need proof.
- D. Para D is incorrect ,Union Council policy does not fall in this case.
- E. Para E is incorrect, that all the transfer orders are made in public interest and same was done in the case of appellant.
- F. Para F is incorrect, transfer was made after 02 years.
- G. That the appellant is not transferred to far-flung area but his own locality which is according to rule and policy.
- H. No comments.
- I. Incorrect, the appellant has no right to file an appeal before KP Service Tribunal Peshawar that the respondents has further solid/genuine ground will be given at the time of Arguments.

PRAYER.

It is therefore humbly prayed that this Honorable Service Tribunal may very graciously dismiss the appeal with cost.

Respondent 1 to 3.....

1. The Secretary (E & SE) KPK -----

2. The Director (E & SE) KPK -----
Additional Director (Estt.)
Directorate of E & SE
Khyber Pakhtunkhwa Peshawar

3. The DEO (M) Mansehra -----

AFFIDAVIT

I, Abdullah District Education Officer (Male) Mansehra, do hereby solemnly affirm and declare that the Reply in appeal No.817 of titled Habib Shah versus Govt, is true to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.



DISTRICT EDUCATION OFFICER
(MALE) MANSEHRA

بعدالت جناب چیمبرین صاحب سروس ٹریبونل لپشاور کیمپ کوٹ ایبٹ آباد

عنوان: اصلاح احوال

بندہ عرض پرداز ہے کہ

(1) میں ضیاء الحق ولد غلام جان ساکنہ اوگی خلیفی ہوں کے DEO ماٹسہ نے 20/03/15 کو بذریعہ NTS بطور AT میری تعیناتی GMS شنی بالہ کی۔

(2) مگر مذکورہ سکول میں پہلے سے ہی سید حبیب شاہ ولد شاہ عمران بطور معلم عربی خدمات سرانجام دے رہے تھے تو DEO آفس نے ایک اور آڈر بتاریخ 03/09/15

ان کا تبادلہ GMS چنیال کر دیا اور یوں مجھ کو GMS شنی بالہ میں ایڈجسٹمنٹ کر دیا گیا۔
(3) GMS چنیال میرا قریبی سٹیشن اور ساتھ اپنے پیش رو کو زہنی جسمانی مالی پریشانی سے بچانے کیلئے میں نے DEO آفس کو اپنی ایڈجسٹمنٹ چنیال کیلئے عرضیاں بھی دیں مگر بے سود۔

(4) مندرجہ بالا وجوہ کی بناء پر سید حبیب شاہ صاحب عدالت چلے گئے جن کا مقدمہ آپ کی معزز عدالت میں زیر سماعت ہے۔

میں آپ سے عرض گزار ہوں کہ اصلاح احوال فرمائیں

DEO ماٹسہ کو حکم صادر فرمائیں کہ میری ایڈجسٹمنٹ GMS چنیال کر دی جائے اور سید حبیب شاہ صاحب کو بوجہ مقامی ہونے کے GMS شنی بالہ میں رہنے دیا جائے۔

عین نوازش ہوگی

العرض

ضیاء الحق AT GMS شنی بالہ ضلع ماٹسہ

14/09/2015

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 290 ST

Dated 22 / 2 / 2016


To

The District Education Officer,
Mansehra.

Subject: - Judgement.

I am directed to forward herewith certified copy of Judgement dated 16.2.2016 passed by this Tribunal on subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.