


## FORM OF ORDER SHEET

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

Case No. - 364/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	24/02/2023	<p>The appeal of Mr. Salcem Khan presented today by Mr. Mir Zaman Safi Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____. Parcha Peshi is given to appellant/counsel for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

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

APPEAL NO. 364/2023

SALEEM KHAN

VS

EDUCATION DEPTT:

**INDEX**

S.NO.	DOCUMENTS	ANNEXURE	PAGE
1	Memo of appeal	.....	1- 3.
2	Affidavit	.....	4.
3	Order dated 26.01.2021	A	5.
4	Adjustment order dt: 26.10.2021	B	6.
5	Charge report	C	7.
6	Adjustment order dt: 13.06.2022	D	8.
7	Application	E	9.
8	Forwarding letters	F & G	10- 11.
9	Departmental appeal	H	12.
10	Wakalat nama	.....	13.

APPELLANT

THROUGH:

  
MIR ZAMAN SAFI  
ADVOCATE

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

APPEAL NO. 364 /2023

Mr. Saleem Khan, Lab Attendant (BPS-04),  
GHSS Ghalanai now in O/O the District Education Officer (M), Distt: Mohmand.  
.....APPELLANT

**VERSUS**

1. The Secretary, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
2. The Director, E&SE Department, Khyber Pakhtunkhwa, Peshawar.
3. The District Education Officer (M), District Mohmand.

.....RESPONDENTS

**APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE INACTION OF THE RESPONDENT NO.3 BY NOT ADJUSTING THE APPELLANT AGAINST HIS ORIGINAL POST I.E. LAB ATTENDANT (BPS-04) AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.**

**PRAYER:**

That on acceptance of this appeal the respondents may very kindly be directed to adjust the appellant against his original post i.e. Lab Attendant (BPS-04) with all back benefits. Any other relief which your good self deems fit that may also be awarded in favor of the appellant.

**R/SHEWETH:**

**ON FACTS:**

- 1- That appellant is the employee of respondent Department and was serving as Lab Attendant (BPS-04) at GHSS Ghalanai, District Mohmand quite efficiently and upto the entire satisfaction of his superiors.
- 2- That during service the appellant was removed from service and during such period the respondent No.3 appointed one his blue eyed Mr. Nawaz Khan, Lab Attendant (BPS-04) against the post of appellant vide order dated 26.01.2021 which shows clear malafide on his part. Copy of the order dated 26.01.2021 is attached as annexure.....A.
- 3- That the appellant filed departmental appeal against his removal order which was allowed and the appellant is hereby re-instated in service and subsequently posted against the wrong post of Chowkidar (BPS-03) vide

order dated 26.10.2021 and posted at Office of the Sub Divisional Education Officer, Upper Mohmand. Copies of the order and charge report are attached as annexure.....**B & C.**

- 4- That the appellant in pursuance of the order dated 26.10.2021 submitted his charge report and started performing his duty with all zeal and zest while the respondent No.3 transferred the appellant from Office of the SDIO, Upper Mohmand to GHS Ghazi Baig No.01 vide order dated 13.06.2022 against the post of Lab Attendant (BPS-04) but due to pressure of the owner of School land the Principal concerned did not accept charge report of the appellant. Copy of the order dated 13.06.2022 is attached as annexure.....**D.**
- 5- That it is also pertinent to mention here that the appellant approached the respondent No.3 regarding the above mentioned situation but the respondent No.3 instead of actualize his order dated 13.06.2022 by issuing directions to the Principal concerned verbally adjusted the appellant in his office against the wrong post of caller.
- 6- That appellant time and again requested the authorities for his adjustment through verbal and written requests and as such the higher authorities ordered the respondent No.3 through their forwarding letters dated 05.09.2022 and 30.09.2022 for adjustment of the appellant against his original post but the respondent No.3 also refused the same. Copies of the application and forwarding letters are attached as annexure.....**E, F & G.**
- 7- That the appellant feeling aggrieved from the inaction of the respondent No.3 preferred departmental appeal before the respondent No.2 but no reply has been received so far. Copy of the departmental appeal is attached as annexure.....**H.**
- 8- That appellant feeling aggrieved and having no other remedy but to file the instant appeal on the following grounds amongst the others:

**GROUND:**

- A- That inaction of the respondents No.3 by not adjusting the appellant against the post of Lab Attendant (BPS-04) is against the law, facts, norms of natural justice and materials on the record, hence not tenable and liable to be set aside.
- B- That the appellant has not been treated in accordance with law and rules on the subject noted above and as such the respondents violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.

- C- That the respondent No.3 acted in arbitrary and malafide while filling the post of appellant i.e. Lab: Attendant (BPS-04) at GHSS Ghalanai and adjusted the appellant against the wrong post of caller, which is against the law and rules, therefore, the same is not tenable in the eye of law.
- D- That the action and inaction of the respondent No.3 by adjusting the appellant against the wrong post of caller and filling the original post of the appellant is against the legal rights of the appellant.
- E- That the action and inaction of the respondent No.3 is violative of the principle of natural justice, hence not tenable in the eye of law.
- F- That instead of clear directions from the higher authorities the respondent No.3 is not willing to adjust the appellant against his original post.
- G- That the action and inaction of the respondent No.3 is discriminatory in nature, therefore, not tenable in the eye of law and liable to be justified.
- H- That the appellant seeks permission to advance any other ground at the time of hearing:

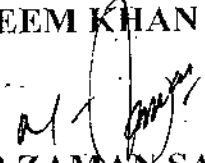
It is, therefore, most humbly prayed that the appeal of appellant may be accepted as prayed for.

Dated: 20.02.2022.

APPELLANT

  
SALEEM KHAN

THROUGH:

  
MIR ZAMAN SAFI,  
ADVOCATE

**CERTIFICATE:**

It is, certified that no other earlier appeal was filed between the parties.

  
DEPONENT

**LIST OF BOOKS:**

- 1- CONSTITUTION OF PAKISTAN, 1973
- 2- SERVICES LAWS BOOKS
- 3- ANY OTHER CASE LAW AS PER NEED

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

APPEAL NO. \_\_\_\_\_/2023

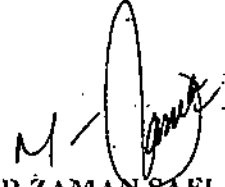
SALEEM KHAN

VS

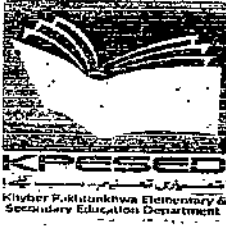
EDUCATION DEPTT:

**AFFIDAVIT**

I Mir Zaman Safi, Advocate High Court, Peshawar on the instructions and on behalf of my client do hereby solemnly affirm and declare that the contents of this service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



MIR ZAMAN SAFI  
Advocate  
High Court, Peshawar



OFFICE OF THE DISTRICT EDUCATION OFFICER  
MOHMAND TRIBAL DISTRICT

Ph. No. ☎: 0924-290180

FAX ☎ 924290180

Email ✉ : -deomohmand@gmail.com



**APPOINTMENT ORDER**

Consequent upon the approval of the District Selection Committee in its meeting held on 22-01-2021, the competent authority has been pleased to appoint the following candidates as Class IVs against vacant posts on regular basis in BPS-03 of the basic pay scale @ Rs. (9610-390-21310) plus usual allowances as admissible under the rules in the school mentioned against each their names on the terms and conditions given below with effect from their date of taking over charge.

S.#	Name	Father's Name	Appointed as.	Place of posting.	Remarks
1	Shahzar Khan	Tahir Khan.	Chowkidar	DEO Office Mohmand	A.V.P
2	Nawaz Khan	Khan Badshah	Lab Attendant	GHSS Ghallanai	A.V.P

**TERMS & CONDITIONS**

1. NO TA/DA etc is allowed.
2. Charge reports should be submitted to all concerned in duplicate.
3. They will be governed by such rules and regulations as prescribed by the Govt: from time to time for the category of government servants to which they belong.
4. In case of resignation, one-month prior notice should be given by the official concerned otherwise one month pay will be forfeited in lieu thereof.
5. Appointment is subject to the condition that certificates / degrees/ Domicile etc must be verified from the concerned authorities by Principals / Head Masters Concerned if any documents found bogus/fake/forged, he will be terminated and his case will be reported to the law enforcing Department / agencies for further action.
6. They should take charge of their post within 30 days after the issuance of this order.
7. They will produce health fitness and age certificate from the concerned civil surgeon.
8. Their pay shall be released after proper verification of documents & testimonials from the concerned agencies by Principals / Head Masters Concerned.

(Note):

*Appointment order shall be verified by the concerned Drawing and Disbursing officers personally from the office of the undersigned before handing over charge to the official.*

(NOOR HASSAN KHAN)  
District Education Officer  
Mohmand Tribal District

Endsr. No. 976-831 / Appointments File / DSC-22-01-2021 / Dated: 26/01/2021

Copy to the: -

1. Director of Education Elementary & Secondary Khyber Pakhtunkhwa Peshawar.
2. Director of Education NMD Secretariat Peshawar.
3. Deputy Commissioner Mohmand Tribal District.
4. District Account Officer Mohmand Tribal District.
5. ADEOs concerned.
6. Candidates Concerned.
7. EMIS Section Local Office.
8. Office record.

District Education Officer  
Mohmand Tribal District



OFFICE OF THE DISTRICT EDUCATION OFFICER  
MOHMAND TRIBAL DISTRICT  
Ph. No. ☎: 0924-290180  
FAX ☎: 0924290180  
Email ✉ :- [deomohmand@gmail.com](mailto:deomohmand@gmail.com)



B-6

## ADJUSTMENT ORDER

In compliance of the Sectary (E&SED) Govt:Khyber Pakhtunkhwa No.SO/(PE)5-1/Gen-Misc/2021 dated 11-10-2021, Additional Director (NMAs) Khyber Pakhtunkhwa Peshawar No.13968 dated 11-10-2021 and re-instead as Lab: Attendant in (BS-4) vide District Education Office (Male) Endst:No. 3467-72 dated 20-10-2021 the competent authority is pleased to order the adjustment of Mr.Saleem Khan Lab: Attendant (BS-4) and against the newly created Chowkidar post (BS-3) in Sub-Divisional Education Office (Male) Upper Mohmand Tribal District in his own pay & scale for the pay purpose in the best interest of public with effect from 18-11-2020.

### Note.

1. No TADA and Transfer grant is allowed.
2. Charge report should be submitted to all concerned.

(NOOR HASSAN KHAN)  
District Education Officer  
Mohmand Tribal District

Endst:No. 3597-3602  
Copy forwarded to the:-

Dated: 26 / 10 / 2021.

- 1:-PS to Secretary, Education (E&SED) Khyber Pakhtunkhwa Peshawar.
- 2:-PA to Director (E&SED) Khyber Pakhtunkhwa Peshawar.
- 3:-PA to Additional Director Education (NMD) Khyber Pakhtunkhwa Peshawar
- 4:-District Accounts Officer Mohmand.
- 5:-SDEO (Upper) Mohmand Tribal District
- 6:-Official Concerned.

District Education Officer  
Mohmand Tribal District



GOVERNMENT OF KHYBER PAKHTUNKHWA PESHAWAR  
CERTIFICATE OF TRANSFER OF CHARGE

C-7

Certified that I Saleem Khan 2/11/21

Have this day F.N/A.N taken over charge of the office of DEO Moinaill

with reference to the order of the DEO Moinaill Government

No. 3597-3602 Dated 26/10/2021

Transfer Mr/Miss/Mst: vacant to \_\_\_\_\_

2. Particular of cash and important/secret/confidential documents handed over/taken over are noted on the reverse.

Signature of relieved Government servant vacant  
Designation \_\_\_\_\_

Station Shallana

Signature of Government servant receiving charge \_\_\_\_\_  
Designation \_\_\_\_\_

Dated 26/10/21

Endst.No. \_\_\_\_\_ Dated \_\_\_\_\_ 2021.

[Signature]  
District Education Officer  
Mohmand Tribal District

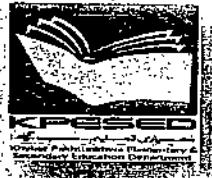
[Signature]



OFFICE OF THE DISTRICT EDUCATION OFFICER  
MOHMAND TRIBAL DISTRICT.

Ph. No.: 0924-290180

email: [deomohmand@gmail.com](mailto:deomohmand@gmail.com)



No

Dated /06/2022

**ADJUSTMENT ORDER**

*As per directions of the Section Officer Elementary and Secondary Education Officer Khyber Pakhtunkhwa Peshawar vide his letter No. SO(PE)/E&SED/2-1/Gen-Posting-Transfer/2021-22 Dated 25-01-2022, the Competent Authority, is pleased to adjust Mr. Saleem Khan, at GHS Ghazi Baig No. 01, against vacant post Lab Attendant (BS-04) in his own pay and scale in the best interest of public service with immediate effect.*

**Note:**

1. No TA/DA etc. are allowed.
2. Charge report should be submitted to all concerned.

(Noor Hassan Khan)  
District Education Officer  
Mohmand Tribal District

Endst; No. 3989-3004 dated: 13 /06/2022

**Copy to the:**

1. PA to Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
2. District Monitoring Officer EMA Mohmand Tribal District.
3. Head Masters concerned.
4. Official concerned.
5. Office record.

District Education Officer  
Mohmand Tribal District

*(Handwritten signature)*

بخدمت جناب سیکرٹری انسٹری ایڈ سیکنڈری ایجوکیشن پشاور

درخواست برائے اپنی جگہ پر ایڈ جسٹ کرنے کا حکم صادر فرمائے۔

E-9

جناب عالی!

مودبانہ گزارش ہے۔ کہ سائل ایک غریب خاندان سے تعلق رکھتا ہے

یہ کہ سائل ضلع مہمند غلٹی میں گورنمنٹ ہائر سیکنڈری سکول میں بطور لیب اسٹڈنٹ سال 2005-2-25 میں تعینات ہو چکا ہے۔

یہ کہ سائل کے ساتھ محکمہ بہت زیادتیات کر رہے ہے بلکہ سائل کو اپنے سکول غلٹی سے اٹھا کر اور DEO آفس میں کار POST پر ایڈ جسٹ کیا گیا بلکہ یہ post کار حالہ کیلئے ہوتی اور سائل کا اپنا اصل پوسٹ گورنمنٹ ہائر سیکنڈری سکول غلٹی میں ہے۔ کہ سائل نے 24-05-2022 پر ایک درخواست سیکرٹری صاحب کو لکھا تھا اس پر remarks جاری کیا اور اس کے ساتھ ایک لیٹر بھی D.E.O مہمند کو کیا گیا جب یہ لیٹر وہاں پہنچ گیا تو D.E.O نے سائل کو آفس سے اٹھا کر 25 کلو میٹر دور ٹرانسفر کیا یہ مالک مکان کا سکول ہے اور سائل اپنی جگہ کیلئے آپ کو درخواست گزار ہے کہ سائل کا جس سکول کو آرڈر ہوا ہے وہ مالک مکان کا سکول ہے اور سائل نہیں چھوڑتے برائے مہربانی یہ آرڈر غازی بیگ GHS کا آرڈر کنسل کیا جائے اور سائل کو GHSS غلٹی میں ایڈ جسٹ کرنے کا احکامات جاری کیا جائے۔

یہ کہ سائل اسی سکول میں تعیناتی 2005 میں اسی سکول میں ہو چکا ہے اور سائل کو DEO آفس میں غلط پوسٹ پر ایڈ جسٹ کیا گیا ہے جو کہ غیر قانونی ہے۔

یہ کہ یہ بھی سائل کے ساتھ زیادتیات ہے اسلئے آپ صاحبان کو درخواست کی جاتی ہے کہ سائل کو اپنا Permanent Post گورنمنٹ ہائر سکول غلٹی میں

Secretary to Govt. of  
Khyber Pakhtunkhwa  
E&SE Department

المرقوم: 25-06-2022

سلیم خان لیب اسٹڈنٹ گورنمنٹ ہائر سیکنڈری سکول غلٹی ضلع مہمند



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT  
Block "A" Opposite M PA's Hostel, Civil Secretariat Peshawar  
Phone No. 091-9223587

F-19

No. SO(PE)/E&SED/2-1/transfer/2022  
Dated Peshawar the September 5<sup>th</sup>, 2022


To

The Director,  
Elementary & Secondary Education,  
Khyber Pakhtunkhwa

Subject: - **APPLICATION FOR ADJUSTMENT HOME DISTRICT**

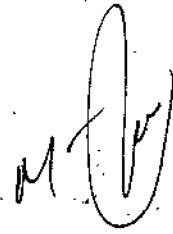
I am directed to refer to the subject noted above and to enclose herewith a copy of application which is self-explanatory submitted by Mr. Saleem Khan Lab attendant GHSS ghalannai District Mohammand for necessary action please.

Encl. As above.

  
(MUHAMMAD ISHAQ)  
SECTION OFFICER (PE)

Copy forwarded to the ;PS to Secretary, E&SE Department Khyber Pakhtunkhwa.

  
SECTION OFFICER (PE)  
5/9/22



۱۳۰۳ ۲۰۲۲

سليم خان ليپ آئندنت گورنمنٹ بائير سيكندري سکول تھلنسي ضلع مہمند



Directorate of Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar  
Phone# 091-9330240, 9331240

No. 9021

Dated 30/9/2022

G-11

To,

The District Education Officer (M)

District Mohmand

Subject:

APPLICATION FOR ADJUSTMENT ON HIS OWN POST.

Memo

I am directed to enclose herewith a photo copy of the letter Section Officer (PE) Govt of Khyber Pakhtunkhwa Elementary & Secondary Education Department alongwith application in r/o Mr. Saleem Khan Lab: Attendant District Mohmand on the subject cited above and to ask you to resolve the issue in light of Section Officer (PE) letter please.

Deputy Director (F/A)

Encls: No. \_\_\_\_\_ / E-4 Mohmand Dated \_\_\_\_\_ / 2022

Copy to:

1. Section Officer (PE) Govt of Khyber Pakhtunkhwa Elementary & Secondary Education Department w/r to his letter No. SO(PE)/E&SED/2-1/transfer/2022 dated Peshawar the September 5<sup>th</sup>, 2022.
2. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. PA to Addl: Director (Estab:) Local Directorate.

Deputy Director (F/A)

H-12

To

The Director, E&SE Department,  
Khyber Pakhtunkhwa, Peshawar.

Subject:

DEPARTMENTAL APPEAL FOR ADJUSTMENT AGAINST THE  
ORIGINAL POST OF LAB: ATTENDANT (BPS-04) AT GHSS  
GHALANAI, DISTRICT MOHMAND

Respected Sir,

With due respect it is stated that I am the employee of your good self department and presently serving against the post of Caller in Office of the District Education Officer (M), District Mohmand.

That I served the department for more than 17 years till date quite efficiently and upto the entire satisfaction of my superiors. That while I was performing my duties at GHSS Ghalanai the Worthy District Education Officer (M), District Mohmand removed my services and subsequently appointed his blue eyed chap person Mr. Nawaz Khan, against my post vide order dated 26.01.2021.

That feeling aggrieved from the removal order I preferred departmental appeal before the Secretary, E&SE Department which was accepted by re-instating me but the District Education Officer, District Mohmand malafidely posted me against the wrong post of Chowkidar at Office of the Sub Divisional Education Officer, Mohmand vide order dated 26.10.2021.

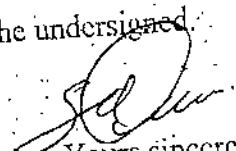
That later on I was transferred and posted at GHSS Ghazi Baig No.1 but due to the pressure of land owner the concerned Principal refused my charge report. That subsequently I approached the District Education Officer (M), District Mohmand but he verbally adjusted me against the post of caller in his office.

That I preferred an application before the Worthy Secretary, E&SE Department for adjustment against my original post and the same has been sent to your good self through forwarding letter dated 05.09.2022 for necessary action. That in continuation of the aforementioned forwarding letter dated 05.09.2021 your good self directed the District Education Officer (M), District Mohmand to adjust the undersigned on his original post of Lab: Attendant (BPS-04) but the authority concerned is not willing to do so.

That it is pertinent to mention that in the present situation I have no any post and I am in hanging position and the authority concerned left the undersigned without any proper posting. That I am feeling aggrieved preferred the instant departmental appeal before your good self.

It is, therefore, most humbly prayed that on acceptance of this departmental appeal the District Education Officer (M), District Mohmand may very kindly be directed to adjust the undersigned against his original post i.e. Lab: Attendant (BPS-04) at GHSS Ghalanai, District Mohmand with all back benefits. Any other relief which your good self deems fit that may also be awarded in favor of the undersigned.

Dated: 16.11.2022.

  
Yours sincerely  
Saleem Khan, Lab. Attendant (BPS-04)  
GHSS Ghalanai

WAKALAT NAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

\_\_\_\_\_ OF 2023

Saleem Khan

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

VERSUS



Education Deptt.

(RESPONDENT)  
(DEFENDANT)

I/We Saleem Khan

Do hereby appoint and constitute **MIR ZAMAN SAFI,** Advocate, High Court, 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 cost. 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.

Dated: \_\_\_\_\_ / \_\_\_\_\_ /2023

  
CLIENT  
  
ACCEPTED  
MIR ZAMAN SAFI  
ADVOCATE

OFFICE:

Room No.6-E, 5<sup>th</sup> Floor,  
Rahim Medical Centre, G.T Road,  
Hashtnagri, Peshawar.  
Mobile No.0333-9991564  
0317-9743003