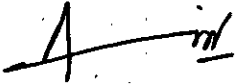


FORM OF ORDER SHEET

Court of _____

Appeal No.

1470/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	14/07/2023	<p>The appeal of Mr. Arshad Masood presented today by Mr. Muhammad Arshad Tanoli Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on</p> <p>By the order of Chairman  REGISTRAR</p>

To

The chairman Khyber Pakhtunkhwa
Service Tribunal Peshawar.

Subject:- **APPLICATION FOR EARLY HEARING OF THE APPEAL AT
PRINCIPAL SEAT PESHAWAR DUE TO INVOLVEMENT
OF TRANSFER ISSUE IN THE INSTANT APPEAL.**

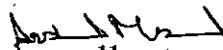
Sir,

With due respect it is stated that Mr Arshad Masood SST(G) ASDEO (M) circle BOI Abbottabad (Applicant) has been transferred on 22/06/2023 and his services were put on the disposal of DEO(M), Attd while M, Assad Ali SST science has been transferred on his post.

An appeal has been submitted at services tribunal for cancellation of impugned order dated 22/06/2023 you are requested for early hearing of the Appeal on the following grounds.

- a. The Appellant has been transferred only after 8 months without completing the tenure having no complain against him.
- b. The pay of appellant will stop in a few days which will effect the Appellant & his family badly.
- c. The impugned order dated 22/06/2023 is based on malafide intentions and the relevant order has violated the justice. The court should help the appellant by granting relief to the aggrieved (Appellant), as soon as Possible.

Dated :14/07/2023


Appellant
Arshad Masood
ASDEO (Male) Circle BOI,
Abbottabad.

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE

TRIBUNAL PESHAWAR

Appeal no. 1470/2023

Arshad Masood SST (General), ASDEO (Male), Circle Boi, District
Abbottabad. Appellant

VERSUS

Government Of Khyber Pakhtunkhwa Through Secretary Elementary And
Secondary Education, Peshawar & others.

..... Respondent

SERVICE APPEAL

INDEX

S.No.	Description of Documents	Annexure	Pages
1.	Service appeal along with affidavit		1-9
2.	Application for suspension of order		10-11
3.	Copy of transfer order dated 16/11/2022	"A"	12
4.	Copy of appreciation/experience certificate issued by respondents department.	"B"	13
5.	Copy of relevant pages of posting transfer policy showing 03 years service tenure.	"C"	14-15
6.	Copy of impugned order dated 22/06/2023	"D"	16
7.	Copy of 1 st appeal dated 23/06/2023 and rejection order dated 03/07/2023.	"E"	17-18
8.	Wakalatnama		19

Dated :14/07/2023

Through

Arshad Masood
Appellant

Muhammad Arshad Khan Tanoli
Muhammad Arshad Khan Tanoli
Advocate supreme court of Pakistan

(1)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

Service Appeal No. 1470 2023

Arshad Masood SST (General), ASDEO (Male), Circle Boi, District
Abbottabad.

....APPELLANT

V E R S U S

1. Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Peshawar
2. Director, Elementary & Secondary Education (E&SE), Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Male) Abbottabad.
4. Asad Ali SST (Science) GHSS, Dalola, District Abbottabad.

...RESPONDENTS

SERVICE APPEAL UNDER SECTION 4 OF
KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL ACT 1974 FOR DECLARATION
TO THE EFFECT THAT THE PETITIONER
WAS POSTED FROM GMS NARDUBA
ABBOTTABAD AGAINST THE VACANT
POST OF ASDEO (MALE) CIRCLE BOI VIDE
ORDER DATED 16/11/2022, THEREAFTER,

2

WITHOUT EXPIRY OF SERVICE TENURE
RESPONDENT NO.4 WAS POSTED FROM
GHSS DALOLA TO THE POST OF ASDEO
(MALE) CIRCLE BOI ABBOTTABAD VIDE
IMPUGNED ORDER DATED 22/06/2023 AND
THE SERVICES OF THE APPELLANT WERE
PLACED AT THE DISPOSAL OF DEO (MALE),
ABBOTTABAD FOR FURTHER
ADJUSTMENT. WHICH IS PERVERSE,
DISCRIMINATORY AND AGAINST THE LAW
AND THE SAME IS LIABLE TO BE SET-
ASIDE.

PRAYER: ON ACCEPTANCE OF INSTANT
SERVICE APPEAL, IMPUGNED TRANSFER
ORDER AGAINST APPELLANT DATED
22/06/2023 MAY GRACIOUSLY BE SET-
ASIDE, RESPONDENT MAY BE DIRECTED
TO RESTORE TRANSFER ORDER DATED
16/11/2022 OF THE APPELLANT. ANY OTHER
RELIEF WHICH THIS HONOURABLE
TRIBUNAL DEEM FIT AND PROPER IN THE
CIRCUMSTANCES OF THE CASE MAY ALSO
BE GRANTED TO THE APPELLANT.

3

Respectfully Sheweth;-

The facts forming the background of the instant service appeal are arrayed as under;

1. That, the appellant is serving as SST (General) and was posted as ASDEO (Male) Circle Boi vide transfer order dated 16/11/2022. Copy of transfer order dated 16/11/2022 is annexed as Annexure "A".
2. That, the appellant served the department as ASDEO (Male) Circle Boi for a total period of 08 months, with complete devotion, dedication and ever moved to front line officer whenever found any bottle necks in the smooth management of the schools. In this regard, appreciation/experience certificate issued by respondents department is annexed as token of proof as Annexure "B".
3. That as per posting/transfer policy normal service tenure of the employee is 03 years which should always be honoured and respected by the respondents' department. Copy

of relevant pages of posting transfer policy showing 03 years service tenure is annexed as Annexure "C".

4. That, the respondent No.2 without the completion of service tenure of the appellant has transferred the appellant from ASDEO (Male) Circle Boi, Abbottabad and was placed at disposal of DEO (Male); and respondent No.4 was posted in place of the appellant. Hence, the appellant was placed at the disposal of respondent No.3 for further adjustment vide impugned order dated 22/06/2023. Copy of impugned order dated 22/06/2023 is annexed as Annexure "D".

5. That feeling aggrieved, the appellant filed departmental appeal against the transfer order dated 22/06/2023 vide departmental appeal dated 23/06/2023 which was rejected on 03/07/2023 by respondents' department. Copy of appeal dated 23/06/2023 and rejection order dated 03/07/2023 are annexed as Annexure "E". Hence, the instant service appeal is filed inter-alia on the following grounds:-

GROUNDS:-

- a. That both the employees i.e appellant and respondent No.4 belongs to teaching cadres. The appellant has been posted from post of ASDEO (Male) Circle BOI and the respondent No.4 has been posted against the post of appellant which is against the rules and service laws in vogue.
- b. That respondent No.4 is blue eyed and after exerting political pressure on the respondents managed to get the impugned transfer order dated 22/06/2023 which is politically motivated in all four.
- c. That, good governance demand that tenure of the appellant as per posting and transfer policy was to be honoured but without following and adhering to the rules and policy, the appellant has been transferred from post of ASDEO (Male) Circle Boi. Hence the impugned orders dated 22/06/2023 is liable to be set-aside.

malafide intentions. Hence, in such a situation when this Honourable Tribunal finds that relevant law has been violated and miscarriage of justice has been done against appellant, the court should not fold up its hands while granting relief to the aggrieved appellant.

g. That, respondents' department has led the appellant to the place which is utterly unknown to the principle of jurisprudence, fair play, principle of natural justice and equality before law as enshrined in Article 3, 4 & 25 of the Constitution of Islamic Republic of Pakistan 1973.

h. That, the matter relates to terms and conditions of service. Hence, this tribunal has got jurisdiction to entertain the service appeal under 212 of the Constitution of Islamic Republic of Pakistan 1973.

i. That, service appeal of the appellant is well within period of limitation.

d. That, it is worth mentioning here that two orders were issued on 22/06/2023 out of which one order is signed on 23/06/2023. It is further submitted that both the orders having even no with different dates which show that the impugned orders were issued in a hasty manner without consulting prescribe procedure i.e prior approval before issuance of posting orders.

e. That, the appellant may say, with certainty that no file work/requisite minting on case file have not been carried out prior to issuance of posting orders of the appellant.

f. That, through the posting and transfer of employees is a part of service but here this appeal, the appellant has been discriminated because normal tenure of service of appellant is 08 months and during this period, he rendered remarkable service, the impugned posting of respondent No.4 is without lawful justification and based on

It is therefore, very humbly prayed, that on acceptance of instant service appeal, the transfer order against appellant dated 22/06/2023 may graciously be set-aside and respondents may be directed to restore transfer order dated 16/11/2022 of the appellant. Any other relief which this honourable tribunal deems fit and proper in the circumstances of the case may also be granted to the appellant.


..APPELLANT

Dated; _____/2023

Through;


(Muhammad Arshad Khan Tanoli)
Advocate Supreme Court of Pakistan

&

(Muhammad Ibrahim Khan)
Advocate High court

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

Service Appeal No. _____ 2023

Arshad Masood SST (General), ASDEO (Male), Circle Boi, District
Abbottabad.

....APPELLANT

VERSUS

Government of Khyber Pakhtunkhwa through Secretary, Elementary and
Secondary Education, Peshawar & others.

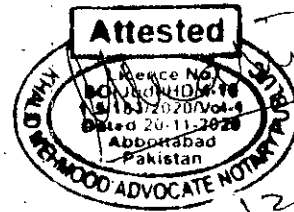
...RESPONDENTS

SERVICE APPEAL

AFFIDAVIT

I, Arshad Masood SST (General), ASDEO (Male), Circle Boi, District
Abbottabad, do hereby solemnly affirm and declare that the contents of
foregoing appeal are true and correct to the best of my knowledge and belief
and nothing has been concealed therein from this Honourable Court.

Arshad Masood
DEPONENT



(9)

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

Service Appeal No. _____ 2023

Arshad Masood SST (General), ASDEO (Male), Circle Boi, District
Abbottabad.

....APPELLANT

V E R S U S

1. Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education, Peshawar
2. Director, Elementary & Secondary Education (E&SE), Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Male) Abbottabad.
4. Asad Ali SST (Science) GHSS, Dalola, District Abbottabad.

...RESPONDENTS

**APPLICATION FOR SUSPENSION OF
IMPUGNED TRANSFER ORDER DATED
22/06/2023 TILL FINAL DISPOSAL OF MAIN
SERVICE APPEAL.**

Respectfully Sheweth;

1. That the instant application may be treated as part and parcel of service appeal of the appellant.
2. That the appellant/petitioner has brought a good prima facie case and balance of convenience also lies in favour of the petitioner/appellant.
3. There is likelihood of success of the appellant in the lis.

4. That the appellant has illegally been transferred from the post of "ASDEO" (Male) circle Boi vide impugned transfer order 22/06/2023.
5. That valuable rights of the petitioner/appellant are involved.

In view of the above it is prayed that impugned transfer order dated 22/06/2023 may graciously be ordered to be suspended till final disposal of the main service appeal.


..APPELLANT

Through;

Dated; _____/2023


(Muhammad Arshad Khan Tanoli)
Advocate Supreme Court of Pakistan

&

(Muhammad Ibrahim Khan)
Advocate High court

AFFIDAVIT:

I, Arshad Masood SST (General), ASDEO (Male), Circle Boi, District Abbottabad, do hereby solemnly affirm and declare that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.


DEPONENT

Annex-A

OFFICE OF THE DISTRICT EDUCATION OFFICE (M) ABBOTTABAD.

TRANSFER ORDER.

P-102

Mr. Arshad Masood SST (G) Govt: Middle School Nardubba Abbottabad is hereby transferred and posted against the vacant post of ASDEO (M) Circle Boi Abbottabad on his own pay and BPS for the best interest of Public Service with effect from the date of taking over charge.

Note:-

1. Charge report should be submitted to all concerned.
2. No TA/DA & T/G is allowed.
3. He will submit an affidavit on judicial stamp paper to the effect that he will not claim seniority in the management cadre and will be considered as stop gap arrangement till the arrival of Management Cadre Officer.

Sd/

(MUHAMMAD TANVEER)

DISTRICT EDUCATION OFFICER (M)
ABBOTTABAD.

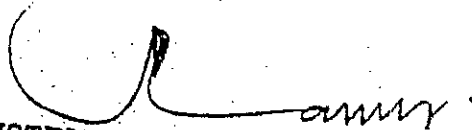
8555-61

Endst: No. _____ / EB-1/ADEOs/ASDEOs

Dated A/Abad the 16/11 /2022.

Copy for information to the:

1. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. District Comptroller of Accounts Abbottabad.
3. District Monitoring Officer (EMA) Abbottabad
4. Sub Divisional Education Officer (M) Abbottabad.
5. Head Master of concerned School.
6. AP EMIS branch local office.
7. Teacher concerned.


DISTRICT EDUCATION OFFICER (M)
ABBOTTABAD

Arshad

MM

Annex-B



OFFICE OF THE SUB DIVISIONAL EDUCATION OFFICER (MALE) ABBOTTABAD

☎ 0992-330713
✉ sdeomale1@gmail.com

P-13

APPRECIATION CERTIFICATE

To whom it may concern.

It is certified that Mr. Arshad Masood ASDEO (M) Circle Boi Abbottabad is honest, hardworking, and intelligent and his performance as ASDEO (M) Circle Boi during his tenure remained outstanding.

40

*Sub Divisional Education Officer
(Male) Abbottabad
Sub Divisional Edu: Officer
(Male) Abbottabad*

Arrested
Arshad Masood
Sub Divisional Education Officer
Abbottabad

Annex- D

P-16



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

SUBSTITUTED WITH EVEN NO. & DATE

NOTIFICATION:

Consequent upon the relaxation of ban on posting/transfer inside the district
as per para-3 of the letter issued vide No. SO(SM)
of the Competent Authority

15/11

84 ESTA CODE (Establishment)

Posting

Statutory Provision.

Section 10 of the NWFP Civil

Posting and Transfer. Every Government servant posted to any post inside or outside the Province, in any post of the Government or Local authority, or in any post of any such Government:-

Provided that nothing contained in this section shall apply to any person recruited specifically to serve in a particular post.

Provided further that, where a Government servant is posted to a post outside a service or cadre, his terms and conditions of service shall not be less favourable than those to which he would have been so required to serve.

POSTING / TRANSFER POLICY

- i) All the posting/transfers shall not be abused/misused to victimise any Government servant.
- ii) All Government servants shall not be subjected to any other pressures or influences in making posting/transfers of their own choice.
- iii) All contract Government servants shall not be posted against any post.
- iv) The normal tenure of posting shall not exceed two years and for the unattractive and hard areas shall be one year.
- v) While making postings/transfers, the Government shall take into consideration the interests of the Government servants.
- vi) While making postings/transfers, the Government shall seek specific approval of Government.

While making postings/transfers, the Government shall not transfer Government servants from settled areas to FATA and

Para-1(v) regarding monitoring authorities for relaxation of ban on posting/transfer inside the district, NWFP Government Rules 2001, Posting/Transfer Rules, allowed to make posting/transfers.

Annex- D

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION KHYBER PAKHTUNKHWA PESHAWAR

NOTIFICATION:

P-16

Consequent upon the relaxation of ban on posting/transfer inside the district accorded by the Competent Authority as per para-3 of the letter issued vide No. SO(SSE) E&SE(D)/5-17/2023 Peshawar dated 12-06-2023 and approval of the Competent Authority (Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar), the transfer/posting of the following official/officials is hereby ordered in his own pay & scale with immediate effect in the best interest of public service.

Sr	Name & Designation	From	To (posted as)	Remarks
1	Mr. Asad Ali Khan SST (BPS-16)	GHSS Daska Abbottabad	ASDEO Circle Abbottabad	BNP

TERMS & CONDITIONS

1. Posting/Adjustment of Teaching Cadre Officer shall be considered as stop-gap arrangement till the arrival of Management Cadre officers.
2. The order of the above named SST will be effective subject to the condition that they will give an undertaking/affidavit on legal paper/stamp paper to DEO (M) Abbottabad to the effect, not to claim seniority of Management Cadre.
3. Charge Report should be submitted to all concerned.
4. No TA/DA is allowed.
5. The terms & conditions mentioned in his appointment order as SST Teaching cadre will remain intact.

DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa

Order No. 3803-05 F.No.A-WADEO (M) Transfer Abbottabad Dated 22/06 2023

Copy forwarded to the:

1. District Education Officer (M) Abbottabad.
2. District Accounts Officer Abbottabad.
3. Officer Concerned.
4. PA to Director E&SE KPK Peshawar
5. Master Copy

Assistant Director (Estab M-I)
Elementary & Secondary Education
Khyber Pakhtunkhwa

Allesed
22/06/2023

2



Registered:

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

No. 5089 /File: 562/RTI/P.F. Arshad Masood/
Abbottabad/2023.

Dated Peshawar the: 04 / 07 /2023

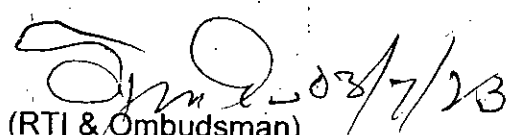
To

Mr. Arshad Masood,
Ex- ASDEO (M) Circle Jui Abbottabad.
Cell No. 0315-9505992.

P-18

Subject: - PROVISION OF INFORMATION UNDER RTI ACT 2013.

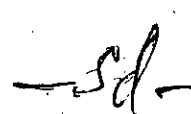
I am directed to refer to your application dated 27.06.2023 on the subject cited above and to state that your appeal has been seen & filed by the Worthy Director, Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.


AD (RTI & Ombudsman)
Directorate of E&SE KP

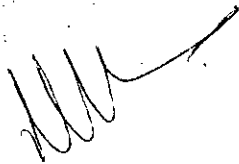
Endst: No. _____ /

Copy forwarded to the: -

1. P.A to Director E&SE KPK Peshawar.


AD (RTI & Ombudsman)
Directorate of E&SE KP

Attested



KPK Service Tribunal Peshawar بعدالت

Arshad Masood sst نام Govt & others عنوان:

Appellant منجانب:

Service Appeal نوعیت مقدمہ:

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کاروائی متعلقہ آں مقام

Attd M. Arshad Ilyas Tanoli, Asst. of Peshawar

صاحب موصوف کو کرانے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا نیز وکیل

صاحب موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری

کرانے اجراء وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت

ضرورت مقدمہ مذکور کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی

بجائے تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا

ساختہ پرداختہ مجھ کو منظور و قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے

مستحق وکیل صاحب ہوں گے۔ نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا

حد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں

کوئی جزو بقایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراد

استجارت نالاش بصدیقہ مفلسی کے دائرہ کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کیا تاکہ سند رہے۔

المرقوم: 12 جنوری 2022

بمقام: Abbellabas

(Signature)

(Signature)

وکیل (ایبٹ آباد)

M. Arshad Ilyas Tanoli