

14.11.2018

Due to retirement of Hon'ble Chairman, the Tribunal is defunct. Therefore, the case is adjourned. To come up on 05.12.2018. Written reply not received. Mr. Hameed Ur Rehman AD representative of respondents absent.



READER

05.12.2018

Counsel for the appellant and Addl. AG for the respondents present.

Learned counsel for the appellant states that grievance of appellant has since been redressed by acceptance of her departmental appeal, therefore, he is under instructions to request for withdrawal of the instant appeal.

Dismissed as withdrawn. File be consigned to the record room.


Chairman

ANNOUNCED

05.12.2018

18.09.2018

Counsel for the appellant present. Preliminary arguments heard and case file perused. Learned counsel for the appellant argued that upon submission of her request for transfer to GGHS Singor, Chitral, the case was processed and finally posting/transfer order was notified on 27.04.2018. That vide impugned order dated 16.05.2018 aforementioned transfer order was withdrawn without giving any justification. Thereafter, she submitted an undated departmental appeal which was not responded within the stipulated period, hence, the instant service appeal. It is also clarified that the appellant had not made any request for mutual transfer. So the word mutual transfer mentioned in both the notifications is beyond comprehension. Premature transfer is violation of Posting/Transfer Policy notified by the Provincial Government. Action taken by the respondents is violation of law and rules and is not sustainable in the eyes of law. A separate application for suspension of impugned order dated 16.05.2018 has also been submitted.

Points urged need consideration. Admit, subject to limitation. Appellant is directed to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 22.10.2018 before S.B. The impugned order dated 16.05.2018 is suspended till the date fixed.

Appellant Deposited
Security & Process Fee

(AHMAD HASSAN)
MEMBER

22-10-2018 Due to Retirement of Honorable Chairman
The Tribunal is non functional therefore
The case is adjourned to come up
for the same on 14-11-2018

of ali
Reader

18.09.2018

Counsel for the appellant present. Preliminary arguments heard and case file perused. Learned counsel for the appellant argued that upon submission of her request for transfer to GGHS Singor, Chitral, the case was processed and finally posting/transfer order was notified on 27.04.2018. That vide impugned order dated 16.05.2018 aforementioned transfer order was withdrawn without giving any justification. Thereafter, she submitted an undated departmental appeal which was not responded within the stipulated period, hence, the instant service appeal. It is also clarified that the appellant had not made any request for mutual transfer. So the word mutual transfer mentioned in both the notifications is beyond comprehension. Premature transfer is violation of Posting/Transfer Policy notified by the Provincial Government. Action taken by the respondents is violation of law and rules and is not sustainable in the eyes of law. A separate application for suspension of impugned order dated 16.05.2018 has also been submitted.

Points urged need consideration. Admit, subject to limitation. Appellant is directed to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 22.10.2018 before S.B. ~~Till then~~ The impugned order dated 16.05.2018 ~~to the extent of appellant~~ is suspended till the date fixed.


Aety de

(AHMAD HASSAN)
MEMBER

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1164/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	18/09/2018 19-9-18	<p>The appeal of Mst. Qamar Begum presented today by Syed Ghufanullah Shah Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>19-9-2018</u></p> <p style="text-align: right;">MEMBER</p>

9

BEFORE THE KHYBER PAKHTUNKHUWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1164 2018

Qamar Begum

V E R S U S

Government of Khyber Pakhtunkhwa (KPK) through Chief Secretary at
Peshawar and others

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5	Copy of Endorsement	"B"	10
6	Copy of Proposal for Transfer	"C"	11
7	Copy of transfer order	"D"	12
8	Copy impugned order	"E"	13
9	Copy of departmental appeal/representation	"F"	14
10	Wakalat Nama		✓

Qamar Begum
Appellant/Petitioner

Through

Syed Ghufuran Ullah Shah
Advocate Peshawar.

Office Address: 22-A Nasir Mention Railway road Peshawar.

Cell # 0334-9185580

BEFORE THE KHYBER PAKHTUNKHUWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1164 2018.

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1452

Date 18/9/2018

Qamar Begum

Headmistress (GGHS-Werkup) D/O Naseem Ahmad

R/O Village Singoor, Tehsil & District Chitral.

.....Appellant

V E R S U S

1. Government of Khyber Pakhtunkhwa (KPK) through Chief Secretary at Civil Secretariat Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa (KPK), Elementary and Secondary Education Government of K.P.K at Civil Secretariat Peshawar.
3. Director Elementary & Secondary Education Khyber PukhtunKhuwa Peshawar.
4. Deputy Director (Female) Directorate of Elementary & Secondary Education Khyber Pakhtunkhaw Peshawar.
5. DEO (Female) Elementary & Secondary Education Distt: Chitral.
6. Mst. Zahida Khatoon R/O Singoor Gankorini Tehil & District Chitral.

.....Respondents

Appeal U/S 4 of KPK, Service Tribunal Act 1974 against
the impugned Order bearing No. SO(S/F) E&SE/4-
16/2017/dated 16-05-2018 issued by Secretary to
Government of Khyber Pakhtunkhwa (KPK),
Peshawar/Respondent No.2; whereby the Transfer of

Filed to-day
Registrar
18/9/18

the appellant from GGHS Wirkup Chitral to GGHS Singoor Chitral, dated 27-04-2018 has been withdrawn.

Prayer;

On acceptance of the subject Appeal the impugned withdrawal of transfer Order of the appellant dated 16-05-2018 be set aside, her Transfer order dated 27-04-2018 be restore and the appellant be allowed to perform her duty as Headmistress at GGHS Singoor, Chitral. Any other relief deems just and proper in the circumstances of the case may also granted to the appellant.

Respectfully stated;

Facts and Grounds giving rise to the instant departmental appeal are as under;

1. That the appellant is a bonafide resident of village Singoor District Chitral and was posted as Headmistress (BPS-17) at Government Girls High School Wirkup Chitral about one and half hundred KM away from her residence.
2. That suddenly on 13-10-2017 the entire house of the appellant caught fire and completely damaged beside causing serious injuries to her family members, therefore, she filed an application to her concerned DEO/Respondent No.5 with effect to transfer her to GGHS Singoor on hardship basis.

(Copy of application is annexure "A")

3. That respondent No.5 after following the applicable Procedure and enquiry on the subject forwarded application of the appellant to Director (Female) Elementary & Secondary Education Khyber Pukhtunkhwa Peshawar/Respondents No.3 & 4 with proper recommendation vide Office Endorsement No. 12964 dated 20.11.2017.

(Copy of Endorsement is annexure "B")

4. That vide Office Letter No. 4063/A-12 dated 18-04-2018, Director Elementary and Secondary Education/Respondent No.3 put the subject proposal along with tenure of

Respondent No.6 before the worthy Secretary Elementary and Secondary Education /Respondent No.2 for process.

(Copy of Proposal for Transfer is annexure "C")

5. That consequently the appellant was transferred from GGHS Wirkup to GGHS Singor vide office order dated 27-04-2018 issued by Secretary Elementary and Secondary Education.

(Copy of transfer order is Annexure "D")

6. That without showing any plausible reason the afore mentioned transfer order has been withdrawn vide impugned order dated 16.05.2018.

(Copy impugned order is annexure "E")

7. That the appellant filed departmental appeal to the next higher authority on 23 -05-2018, which is not responded till date.

(Copy of departmental appeal/representation is annexure "F")

8. That as a matter of right in terms of Government Service of the appellant and having no other remedy; the appellant approaches this honourable Tribunal amongst the following other grounds;

GROUND:

- A. That admittedly the Transfer application of the appellant was duly recommended by the concerned DEO and Directorate of Education has also verified the over tenure status of Respondent No.6 at GGHS Singoor Chitral, which is more than six years, therefore the Transfer order of the appellant dated 27-04-2018 is a legal administrative order, which cannot be withdrawn through impugned order dated 16-05-2018.

- B. That it is also admitted on record i.e application of the appellant, recommendation by DEO and proposal of Directorate that the subject transfer was not mutual between the appellant and Respondent No.6, therefore the withdrawal of the same on such evasive ground and error

of Secretary office is likely to punish the appellant for the wrongs of the same office, which is untenable according to the law.

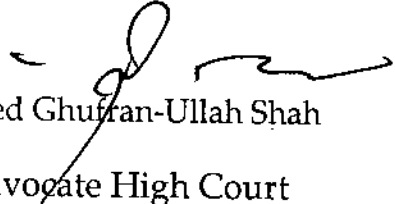
- C. That repeatedly Transfer of appellant within a couple of week is in effective upon the performance of her duty and family life and that's too in hardship situation.
- D. That the Constitution require Elimination of exploitation of appellant and ensure administrative justice, therefore to transfer the appellant in her nearest school with effect to re build her damaged house and care of her family members in such hardship situation is a legitimate right and denial of the same to the appellant is violation of administrative norms followed by Public interest, therefore illegal.
- E. That the subject withdrawal of the Transfer order dated 16-05-2018 is based on malafide and wrong administrative practice because the appellant is bonafide beneficiary of the order dated 27-04-2018 and has gained vested rights and withdrawal of the same without any notice to appellant or calling comments from DEO and Director education is in utter violation of the principles laid down for exercise of discretion and authority in public interest.
- F. That the impugned order has been passed without giving any opportunity to the appellant and that's too without explaining the reason to cancel an order within a couple of week.
- G. That Respondent No.6 has remained in the same school i.e. GGHS Singoor about 35 years out of her total 37 years service therefore, equal treatment to the appellant has been denied.
- H. That the impugned act and omission of the respondents is based on malafide intention, against the well established norms of administration of justice as well as against the fundamental rights of the appellant.

- I. That the instant appeal relates to terms and conditions of Civil Servant and this honorable tribunal has been vested with statutory power to entertain the matter.
- J. That any other grounds will be furnished at the time of final arguments with the prior permission of this honourable Tribunal.

Therefore, it is, most humbly prayed that the instant service appeal be accepted as prayed for.

Qamar Begum
Appellant

Through,


Syed Ghufuran-Ullah Shah

Advocate High Court
Peshawar.

BEFORE THE KHYBER PAKHTUNKHUWA
SERVICE TRIBUNAL PESHAWAR

C.M.....2018

In

Service Appeal No. _____ 2018

Qamar Begum

V E R S U S

Government of Khyber Pakhtunkhwa (KPK) through Chief
Secretary Peshawar and others

An application with effect to suspend the
impugned Office order bearing No. SO(S/F)
E&SE/4-16/2017/dated 16-05-2018, issued by
Secretary to Government of Khyber Pakhtunkhwa
(KPK), Peshawar/Respondent No.2; Till final
disposal of the subject appeal.

Respectfully Sheweth;

Facts and Grounds giving rise to the instant Stay Application
are as under;

1. That the subject Service appeal is being filed to day along with the instant application for stay.
2. That the appellant has not yet relinquished the charge.
3. That the three ingredients like prima facie case, balance of convenience and irreparable laws are in favour petitioner/appellant and against the respondents.
4. That if the instant application is not allowed, the whole case of the appellant will be infructuous.

It is, therefore, most humbly prayed that the subject application may kindly be accepted.

Qamar Begum

Petitioner/Appellant

Through,



Syed Ghufuran-Ullah Shah

Advocate High Court

Peshawar.

BEFORE THE KHYBER PAKHTUNKHUWA
SERVICE TRIBUNAL PESHAWAR

Service Appeal No. _____ 2018

Qamar Begum

V E R S U S

Government of Khyber Pakhtunkhwa (KPK) through Chief
Secretary Peshawar and others


AFFIDAVIT;

I, Qamar Begum Headmistress (GGHS-Werkup) D/O Qazi Mohammad Murad R/O Village Singoor, Tehsil & District Chitral appellants; do hereby solemnly verify and declare on oath that all the contents of the subject appeal and stay application; are true and correct to the best of my knowledge and belief and nothing has been concealed from this Tribunal.

Qamar Begum
Deponent

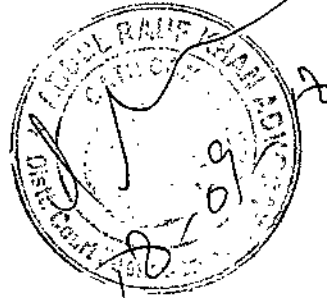
C.N.I.C No.1520-0566815-6

Verified by;



Syed Ghufan Ullah Shah
Advocate, Peshawar.

ATTESTED



خدمت عالیہ ڈسٹرکٹ ایجوکیشن آفیسر فیصل

ضلع جہڑال

گزارش ہے۔ کہ حال ہی میں فدیہ کو پرمیشن ملنے کے بعد گورنمنٹ گزٹنگ اسکول ورک میں ترقیاتی عمل میں آئی ہے۔ فدیہ نے مذکورہ اسکول کا چارج سنبھال لیا ہے۔ مگر میری یہ استدعا ہے۔

1. آپ فدیہ کو اچھی طرح معلوم ہے۔ کہ 13¹⁰ کو 2017 میرا گھر مکمل طور پر جل کر خاک ہو گیا ہے۔ گھر کے تمام سامان جل گئے ہیں۔ اور میری فیملی آج کل فکے موبیلات کے ایک کوارٹر میں رہائش پذیر ہیں۔

2. گھر کی از سر نو تعمیر شروع ہو چکی ہے۔ اور تعمیراتی انتظام کیلئے مجھے یہاں جہڑال میں ہونا ضروری ہے۔ جو ورک میں رہ کر یہ نہیں ہو سکتا۔

3. جاب عالیہ افسر نے مزیدہ خاتون نوگزشتہ سات سالوں سے گورنمنٹ گزٹنگ اسکول سیکولر کھیت پر عمل کام کر رہی ہے۔ کی جگہ مجھے تبدیل کیا جائے۔ اور اسکول کسی دوسری جگہ تبدیل کیا جائے۔

مجھے آپ سے امید ہے کہ آپ میری مشکلات کو مد نظر رکھ کر میری درخواست پر سمدوام طور پر فرمائیں گے۔

20/11/2017

محمد سعید

قائم سیکرٹری

گورنمنٹ گزٹنگ اسکول ورک
کھیت نورنگو ضلع جہڑال

ATTESTED

Amma — B⁴

(10)

No. 12964 /

Dated Chitral 20/11/2017

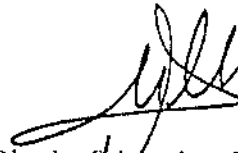
From: The District Education Officer
(Female) Chitral

To: The Director,
Elementary & Secondary Education Department
Khyber Pakhtunkhwa, Peshawar

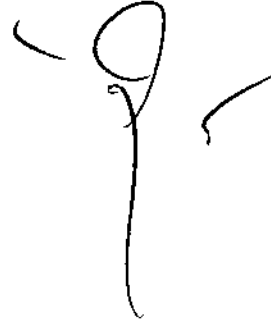
Subject: APPLICATION FOR TRANSFER.

Enclosed please find herewith a copy of an application in respect of Mrs. Qamar Bagum (SST) Government Girls High School Warkop Tehsil Mastuj District Chitral dated 20-11-2017, which is self explanatory.

The contents of the application are based on facts, hence strongly recommended.


District Education Officer
(Female) Chitral

ATTESTED



DIRECTORATE OF ELEMENTARY &
SECONDARY EDUCATION KHYBER
PAKHTUNKHWA PESHAWAR
NO 1063 /A-12/Transfer/Vol-27-A
DATED PESHAWAR THE 13/11/2018

(11)

To

Amx ——— "C"

The Secretary to Government of Khyber Pakhtunkhwa
Elementary & Secondary Education Department

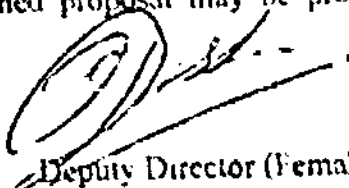
Subject - Posting/Transfer

Dear Sir,

I am directed to refer to the subject cited above and to submit the following
posting/transfer proposal for further necessary action please.

S.#	Name, Qualif and Designation	As proposed	Tenure	Remarks
1	Mst Qamar Begum H/M BS-17 GGHS Wirkup Chitral	H/M BS-17 GGHS Singor Chitral	14/11/2016	Vice S.No.2
2	Mst. Zahida Khatoon H/M BS-17 GGHS Singor Chitral	H/M BS-17 GGHS Wirkup Chitral	8/10/2012	Vice S.No 1

It is therefore requested that the above mentioned proposal may be processed
please


Deputy Director (Female)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

ATTACHED

11.11.18
11.11.18
11.11.18
11.11.18
11.11.18

Amix - "D"

No. _____
Dated 13 / 5 / 2018.

12



GOVERNMENT OF
KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the April 27th, 2018

NOTIFICATION

NO. SO(S/F)E&SE/4-16/2017/Mutual/Posting/Transfer:

Mutual posting/ transfer in respect of following Female Headmistresses (BS-17) of Elementary & Secondary Education Department is hereby ordered against the posts noted against each in the interest of public service with immediate effect:

S#	Name & Designation	As proposed	Remarks
1	Mst. Qamar Begum, HM (BS-17) GGHS Wirkup Chitral	HM (BS-17) GGHS Singor Chitral	Vice Sr. No. 2
2	Mst. Zahida Khatoon, HM (BS-17) GGHS Singor Chitral	HM (BS-17) GGHS Wirkup Chitral	Vice Sr. No. 1

2. No TA/DA allowed.

SECRETARY

Endst: of even No. & date:

- Copy forwarded to the:
1. Director E&SE Khyber Pakhtunkhwa, Peshawar.
 2. Accountant General Khyber Pakhtunkhwa, Peshawar.
 3. District Education Officer (Female) Chitral.
 4. District Accounts Officer Chitral.
 5. In charge EMIS, E&SE Department for uploading at official website.
 6. PS to Secretary E&SE Department.
 7. Headmistresses concerned.
 8. Office order file.

(ANEELA FAHIM)
SECTION OFFICER (SCHOOLS FEMALE)

ATTESTED

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(13)

GOVERNMENT OF
KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Peshawar the 15th of March 2018

CORRIGENDUM

NO. SO/EF&SE/4-16/2017/Mutual Posting/Transfer: In the original notification No. SO/EF&SE/4-16/2017/Mutual Posting/Transfer dated 27-1-2018, the notification for order in respect of the following posts (BS-17) may be treated as withdrawn.

Sr	Name & Designation	As proposed	Remarks
1	Ms. Qamra Beigum, H.M. (BS-17) GGHS Warkup Chitral	H.M. (BS-17) GGHS Chitral	Singur Vice Sr. No.
2	Ms. Zahida Khanum, H.M. (BS-17) GGHS S.M. Chitral	H.M. (BS-17) GGHS Chitral	Warkup Vice Sr. No. 1

2. No TA/DA allowed.

SECRETARY

Ends: of even No. & date:

1. Copy forwarded to the
2. Director E&SE Khyber Pakhtunkhwa, Peshawar.
3. Accountant General Khyber Pakhtunkhwa, Peshawar
4. District Education Officer (Female) Chitral
5. District Accounts Officer Chitral
6. In charge EMIS, E&SE Department for uploading at official website.
7. PS to Secretary E&SE Department.
8. Headmistresses concerned
9. Office order file

Amal Farid
SECTION OFFICER (SCHOOLS FEMALE)

SECTION OFFICER (SCHOOLS FEMALE)

ATTESTED

[Signature]

بعد الت سروس ٹریڈنگ RPK لپ



2018ء منجانب سائل
بنام اوکلیٹ

موزعہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکہ

اسٹیمپ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام _____ کیلئے محمد عظیم الرحمن
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک دروپہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برادگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو پیش وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
پرداختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائد التوائے مقدمہ کے سبب سے دہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ مندر ہے۔

المرقوم _____ ۱۸ _____
ناہ _____ 2018

بمقام _____ کے لئے منظور ہے۔

Attested & Accepted
