


FORM OF ORDER SHEET

Court of

Appeal No. 1712/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	
1-	21/08/2023	<p>The appeal of Mr. Ihtisham Ullah is presented today by Mr. Noor Muhammad Khattak Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 24-08-2023.</p> <p>By the order of Chairman  REGISTRAR</p>

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

SERVICE APPEAL NO. 1712/2023

IHTISHAM ULLAH

V/S

EDUCATION DEPTT:

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APPELLANT

THROUGH:


**NOOR MOHAMMAD KHATTAK,
ADVOCATE SUPREME COURT**

-1-

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 1712/2023

Mr. Ihtisham Ullah, Senior Clerk (BPS-14),
O/O the DEO (F) Dir Upper under transfer
to GHSS Saddo Dir Lower.

..... APPELLANT

VERSUS

- 1- The Government of Khyber Pakhtunkhwa through Secretary (E&S) Education Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Director (E&S) Education Khyber Pakhtunkhwa, Peshawar.
- 3- The DEO (F), District Dir Upper.
- 4- Mr. Zahid Hussain, Senior Clerk (BPS-14) GCMHSS Dir Upper under transfer to the O/O DEO (F) Dir Upper.

..... RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED TRANSFER ORDERS DATED 10.04.2023 AND 19.04.2023 WHEREBY THE APPELLANT HAS BEEN TRANSFERRED FROM O/O THE DEO (F) DIR UPPER TO GHSS SADDO DIR LOWER IN UTTER VIOLATION OF TRANSFER/ POSTING POLICY AND AGAINST THE INACTION OF THE RESPONDENTS BY NOT DECIDING THE DEPARTMENTAL APPEAL WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

PRAYER:

That on acceptance of this appeal the impugned transfer orders dated 10.04.2023 and 19.04.2023 may very kindly be set aside and the appellant be retained at the office of DEO (F) Dir Lower. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:-

- 1- That the appellant is a law abiding citizen of Islamic Republic of Pakistan.
- 2- That the appellant is an employee of the respondent department and was performing his duty as Senior Clerk at the office of DEO (F) Dir Upper.

- 3- That it is worth mentioning that the Election Commission of Pakistan vide notification dated 22.01.2023 banned all kinds of transfers/postings in the provinces of Khyber Pakhtunkhwa and Punjab. Copy of the order dated 22.01.2023 is attached as annexure**A.**
- 4- That the respondents in utter disregard of the notification dated 22.01.2023, transferred the appellant vide impugned office orders dated 10.4.2023 and 19.4.2023. Copies of the orders are attached as annexure **B & C.**
- 5- That it is worth mention that recently vide notification dated 24.11.2021 the appellant was transferred to the office of respondent No.3 and has hardly served the respondents for sixteen months at the ibid station. Copies of the Notification and charge report are attached as annexure **D & E.**
- 6- That appellant feeling aggrieved from impugned orders dated 10.4.2023 and 19.4.2023 preferred departmental appeal/ representation before the respondent No.1 but the same has not been decided till date. Copy of the departmental appeal/ representation is attached as annexure **F.**
- 7- That it is worth mentioning that the appellant preferred W.P No. 425-M/2023 before the Peshawar High Court, Peshawar for direction to the appellate authority for deciding the departmental appeal one way or the other, and the same was noticed to the respondents but till date the same has not been decided. Copy of the order dated 06.07.2023 are attached as annexure**G.**
- 8- That even then the departmental appeal of the appellant was not decided within the stipulated period, hence having no other efficacious remedy but to file the instant appeal on the following grounds amongst the others.

GROUND:

- A- That the impugned orders dated 10.4.2023 & 19.4.2023 being contrary to law and rules and in utter violation of the Notification dated 22.01.2023, hence not tenable in the eye of Law and needs interference of this Honorable tribunal to be set aside.
- B- That appellant has not been treated by the respondent department 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 treatment meted out to the appellant is highly discriminatory and in clear violation of the notification of the Election Commission of Pakistan as mandated under Articles 218 (3), 220 of the Constitution of Islamic Republic of Pakistan read with section 4, 5, 8 (c) and 230 of the Election Act 2017.

- D- That the treatment meted out to the appellant is a clear violation of the Fundamental Rights of the appellant as enshrined in the Constitution of Pakistan 1973.
- E- That the impugned orders are also in violation of the E&D Rules as the ibid rules do not provide transferred as punishment, even then vide the impugned order the same has been imposed which is *void ab initio*.
- F- That the impugned orders is violative of class-I & IV of the transfer/posting policy of the provincial Government. Copy of the policy is attached as annexure **H.**
- G- That the impugned transfer orders dated 10.04.2023 and 19.04.2023 are not passed in the public interest which is clear violation of judgments passed by this Honourable tribunal and Peshawar High Court, Peshawar.
- H- That it is worth mentioning that the Election Commission of Pakistan vide notification dated 22.01.2023 banned all kinds of transfers/postings in the provinces of Khyber Pakhtunkhwa and Punjab.
- I- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

Dated: 17.08.2023

APPELLANT

Through:

af
NOOR MOHAMMAD KHATTAK,
ADVOCATE SUPREME COURT

Umar
UMAR FAROOQ MOHMAND

&

Mehmo
MEHMOOD JAN
ADVOCATES

AFFIDAVIT

I, Ihtisham Ullah, Senior Clerk (BPS-14), O/O the DEO (F) Dir Upper under transfer to GHSS Saddo Dir Lower do hereby solemnly affirm that the contents of this **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

DEPONENT

-4-

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL No. _____/2023

IHTISHAM ULLAH VS EDUCATION DEPTT:

APPLICATION FOR SUSPENSION OF THE OPERATION OF THE
IMPUGNED ORDERS DATED 10.04.2023 AND 19.04.2023 TO
THE EXTENT OF APPELLANT AND PRIVATE RESPONDENT
RESPECTIVELY TILL THE DISPOSAL OF THE SERVICE APPEAL.

R/SHEWETH:

- 1- That the above-mentioned appeal along with this application has been filed before this august service Tribunal in which no date has been fixed so far.
- 2- That appellant filed the above-mentioned service appeal against the transfer orders dated 10.04.2023 and 19.04.2023.
- 3- That all the three ingredients necessary for the stay is in favor of the appellant.
- 4- That the transfer orders dated 10.04.2023 and 19.04.2023 had been issued by the respondents in utter disregard of judgment and, law and prevailing Rules.

It is therefore, most humbly prayed that on acceptance of this application the operation of the orders dated 10.04.2023 and 19.04.2023 may very kindly be suspended to the extent of appellant and private respondent respectively till the disposal of the instant service appeal.

APPLICANT

THROUGH:


NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT

ELECTION COMMISSION OF PAKISTAN
NOTIFICATION

-5- "A"
Islamabad the 22nd January, 2023

F.No.2(1)/2023-Cord.- WHEREAS, the Provincial Assemblies of Punjab and Khyber Pakhtunkhwa under Article 112 of the Constitution of the Islamic Republic of Pakistan stand dissolved on 1st and 10th January, 2023 respectively.

AND WHEREAS, the Election Commission of Pakistan is mandated with the constitutional duty to organize and conduct elections in terms of Article 218(3) of the Constitution and to make such arrangements as are necessary to ensure that the elections are conducted honestly, justly, fairly and in accordance with the law and that corrupt practices are guarded against;

AND WHEREAS, it has become imperative that the Election Commission shall take all necessary steps under the Constitution and prevalent law for smooth conduct of General Elections to the Provincial Assemblies of Punjab and Khyber Pakhtunkhwa.

4 → NOW THEREFORE, in exercise of the powers conferred upon it under Articles 218(3), 220 of the Constitution of the Islamic Republic of Pakistan, Sections 4, 5, 8(c) read with Section 230 of the Elections Act, 2017 and as supported by the Workers' Party case through Akhtar Hussain Advocate, General Secretary and 6 others Versus Federal of Pakistan and 2 others reported in PLO 2012 SC 681, and all the other powers enabling it in that behalf, the Election Commission of Pakistan, to ensure transparent election and to provide a level playing field for all contesting candidates and political parties, hereby directs the Caretaker Governments of Punjab and Khyber Pakhtunkhwa:-

(a) To assist the Election Commission to hold elections in accordance with law as provided under section 230(1)(b) of the Elections Act, 2017.

(b) To ensure the compliance of all the notifications, directives and the provisions as laid down in Section 230 of the Act *ibid*.

(c) Not to post or transfer any public official after the issuance of this notification within and to / from Punjab & Khyber Pakhtunkhwa without prior approval in writing of the Election Commission as laid down in Clause 2(f) of Section 230 of the Elections Act, 2017.

(d) Ensure that all kinds of recruitments in any Ministry, Division, Department or Institution under the Provincial Governments and Local Governments of Punjab and Khyber Pakhtunkhwa are banned with immediate effect, except recruitments by the Provincial Public Service Commissions and those government organizations where test / interviews have already been conducted before this day.

(e) Not to announce / execute any kind of Development Schemes in Punjab and Khyber Pakhtunkhwa Provinces except those which are ongoing and approved before the issuance of this notification. Moreover, the Provincial Governments and Local Governments of Punjab and Khyber Pakhtunkhwa shall not issue tenders of such schemes till culmination of General Elections of both Assemblies.

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- (f) All development funds relating to Local Government Institutions of Punjab and Khyber Pakhtunkhwa and Cantonment Boards falling in the jurisdiction of Punjab and Khyber Pakhtunkhwa shall stand frozen with immediate effect till announcement of results of the said General Elections.
- (g) To ensure immediate termination of services of all heads of the institutions appointed on political basis and to send their lists to the Commission forthwith.
- (h) To ensure vacation of the government residential facilities from Ex-Chief Ministers and their advisors, Ex-Provincial Ministers and Ex-Members of the Provincial Assemblies of Punjab and Khyber Pakhtunkhwa, besides ensuring withdrawal of official vehicles from them. Furthermore, the dignitaries shall be provided security / protocol as per their entitlement and any extra deployment of security / protocol be withdrawn from them forthwith.
- (i) The Caretaker Governments shall perform their functions and attend to day-to-day matters which are necessary to run the affairs of the Provinces in accordance with law.
- (j) The Chief Minister or a Minister or any other member of Caretaker Governments shall, within three days from the date of assumption of office, submit to the Commission, a statement of assets and liabilities including assets and liabilities of his spouse and dependent children as on the preceding 30th day of June on Form B.

This issues with the approval of Election Commission of Pakistan.

(Omar Hamid Khan)
Secretary

Election Commission of Pakistan

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ATTESTED
to 10/10/2023 COPY

ATTESTED

ATTESTED
to 10/10/2023



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

'B'
②
B

OFFICE ORDER

The following order is hereby issued for the disposal of the case mentioned below in accordance with the provisions of the Public Service Commission Act, 1973.

Sr. No.	Name/Designation	Post	Remarks	Remarks
1	Mr. Bilal Sham Clerk (PS-1)	Senior DBO (N) Dir Upper	Services placed in the disposal of Director in case	Administrative ground
2	Mr. Abdullah Clerk (PS-1)	Senior SDEO (N) Taldik (Nasir Karak)	GHSS Mandiwalh Karak	Administrative ground

Note:
Compliance report should be submitted to him concerned.

DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

3861-67

Encl: No. / P No. 23/MS/Complaint Dir Upper Dated: 10/11/2023

- Copy forwarded to the
1. Accountant General, Khyber Pakhtunkhwa, Peshawar
 2. District Education Officer concerned
 3. District Account Officer concerned
 4. Principals concerned
 5. Official concerned
 6. P.A. to Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar
 7. Mailer

Assistant Director (Admin)
Directorate of Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

10/11/2023

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

OFFICE ORDER

The transfer order in respect of the following official is hereby ordered on his own pay and BPS in the interest of public service with immediate effect.

S.N	Name/ designation	From	To	Remarks
1	Mr. Ishtisham Senior Clerk BPS-14	DEO (F) Dir Upper	services placed at the disposal of Directorate E&SE	Administrative ground
2	Mr. Abdullah Senior Clerk S-14	SDEO (F) Takht-e-Nasrati Kark	GHSS Mandiwah Karak	Administrative ground

Note:

1. Compliance report should be submitted to all concerned.

DIRECTOR

Elementary & Secondary Education,
Khyber Pakhtunkhwa, Peshawar

Endst. No.3861-67/F.No.A-23/MS/Complaint Dir Upper

dated 10/4/2023

Copy forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa, Peshawar
2. District Education Officer, concerned
3. District Account Officer concerned
4. Principal concerned
5. Official concerned.
6. PA to Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar
7. Master File.

Sd/-

Assistant Director (Admn)

Directorate of Elementary & Secy. Education
Khyber Pakhtunkhwa, Peshawar



TO BE SUBSTITUTED BY EVEN NO. & DATE

DIRECTOR OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR
Phone: (091) 2253111 Email: adndimn:esc@gmail.com

OFFICE ORDER

The Posting/Transfer in respect of the following official is hereby ordered on their own pay and BPS in the interest of public service with immediate effect.

Sr. No.	Name/Designation	From	To	Remarks
1	Mr. Ihtsham Senior Clerk BPS-14	DEO (F) Dir Upper under transfer to GCMHSS Dir Upper	GHSS Saddo Dir Lower	A.V.P
2	Mr. Zahid Hussain S/Clerk	GCMHSS Dir Upper	DEO (F) Dir Upper	Vice S.No.1

Note:

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

DIRECTOR

Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

Endst: No. 637 / F.No. A-25/MS / Complaint Dir Upper

Dated 19/4/2023

Copy forwarded to the:-

1. District Education Officer concerned
2. District Account Officer concerned
3. Principal Concerned
4. Official concerned
5. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar
6. Master File.

Assistant Director (Admin)
Directorate of Elementary & Secy Education
Khyber Pakhtunkhwa, Peshawar

ATTESTED



**Directorate of Elementary & Secondary Education
Khyber-Pakhtunkhwa, Peshawar**

Phone: 091-9725344

Email: dladm@kpsc.gov.pk

4DS
9-2-19

NOTIFICATION

Consequent upon the recommendation of Departmental Promotion Committee (DPC) in its meeting held on 17-11-2021, the following Junior Clerks (B-11)/Store Keepers (B-7)/ ASK (B-6) working in and under the Directorate of E&SE/DC&TE/DPD/NMTO are hereby promoted to the post of Senior Clerks (B-14) on regular basis and posted/adjusted against vacant post of Senior Clerks (B-14) in the Offices/Institutions as noted against each in the interest of public service with immediate effect.

S#	Name	Father's Name	Design	Present Post	Proposed Post	Remarks
1.	Nazir Shah	Rahim Shah	J/C	GHS Mian Dheri Haripur	GHSS Jhamra Haripur	A.V.P
2.	Hamid Khan	Muhammad Ali Khan	J/C	GHS Jatha Ismail Khel Karak	DEO (M) Karak	A.V.P
3.	Irshad Ahmad	Faqeer	J/C	GHS Sheik Abad Peshawar	GHSS Kotli Sallu Khana Nowshera	A.V.P
4.	Ghanyur Javed	Muhammad Younas	J/C	GHS Umar Payan	SDEO (M) Swabi	A.V.P
5.	Mati Ullah	Badshah Gul	J/C	GHSS Billilang Kohat	GHSS Billilang Kohat	A.V.P
6.	Nisar Ahmad	Sultan Melimood	J/C	GHSS No.3 Peshawar City	GHSS Mirali Banda Nowshera	A.V.P
7.	Muhammad Ayaz	Qabat	J/C	GGHSS Cheena Buner	GHSS Aminwar Buner	A.V.P
8.	Amir Nawab Khan	Jahan Zeb	J/C	GGHS Kowga Buner	DEO (F) Buner	A.V.P
9.	Ghulam Shabir	Sardar Khan	J/C	GGHSS Shagi Peshawar	GHSS Katlang Mardan	A.V.P
10.	Muhammad Irshad	Dost Muhammad	J/C	GGHSS Kulwal Abbotabad	GHSS Jalma Haripur	A.V.P
11.	Muhammad Ghulam	Baz Gul	J/C	SDEO (F) SDW Bannu	GHSS Kotka Muhammad Khan Bannu	A.V.P
12.	Shah Saud	Jamshid Khin	J/C	GGHSS Ulmanzal Charsadda	GHSS Dheri Ikkpant Mardan	A.V.P
13.	Ayaz Muhammad	Muhammad Dawood	J/C	GHSS Doga Nowshera	GHSS Jabal Nowshera	A.V.P
14.	Asmat Ullah	Khan Syed Shah	J/C	GHSS Comprehensive Bannu	GGHSS Rakki Bannu	A.V.P

L:\M&A\Annual\2021\New\Proposal of Junior Clerk Senior Clerk 2021-2022.doc

APPROVED
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P. Khan

209.	Sabir Shah	Said Abdullah Shah	J/C	GHSS Pacha Kally Diner	GHSS Pacha Kally Diner	A.V.P
210.	Muhammad Imran	Muhammad Anwar	J/C	GHSS Bogra Diner	DEO (F) Diner	A.V.P
211.	Shams Ul Haq	Sahib Zada	J/C	GHSS Karanli Diner	GHSS Karanli Diner	A.V.P
212.	Wazir Zada	Sher Zada	J/C	SDEO (M) Ongra Diner	SDEO (F) Duggar Diner	A.V.P
213.	Gohar Rahman	Noor Rahman	J/C	GHSS Agara Diner	GHSS Agara Diner	A.V.P
214.	Sultan Ullah	Said Rahman	J/C	GHSS Gahori Dir Upper	GHSS Khatli Dir Upper	A.V.P
215.	Khalid Khan	Nalik Muhammad	J/C	GHSS Shung Dir Upper	GHSS Akhgram Dir Upper	A.V.P
216.	Nasar Mohammad	Hazrat Mohammad	J/C	DEO (F) Dir Upper	DEO (F) Dir Upper	A.V.P
217.	Hamid Ur Rahman	Sahib Ur Rahman	J/C	SDEO (M) Dir Upper	SDEO (M) Dir Upper	A.V.P
218.	Masood Alam	Shams Ul Islam	J/C	SDEO (F) Dir Upper	SDEO (F) Dir Upper	A.V.P
219.	Majid Ud Din	Sultan Salim	J/C	GHSS Shringal Dir Upper	GHSS Berni Dir Upper	A.V.P
220.	Gohar Ali	Habib Ur Rahman	J/C	DEO (M) Dir Upper	DEO (M) Dir Upper	A.V.P
221.	Masood Ud Din	Said Alam	J/C	GHSS Shringal Dir Upper	GHSS Shringal Dir Upper	A.V.P
222.	Jamal Ud Din	Nizam Ud Din	J/C	GHSS Sundal	SDEO (F) Warli Dir Upper	A.V.P
223.	Misham Ullah	Inayat Ullah	J/C	DEO (F) Dir Upper	DEO (F) Dir Upper	A.V.P
224.	Faiz Hussain	Zakir Ullah	J/C	GHSS Sawai Dir Upper	GHSS Sawai Dir Upper	A.V.P
225.	Muhammad Parvez	Gul Faraz Khan	J/C	GHSS Banda Dir Upper	GHSS Gunori Dir Upper	A.V.P
226.	Alam Zeb	Sher Zamin	J/C	GHSS Barval Dandi Dir Upper	GHSS Barval Dandi Dir Upper	A.V.P
227.	Muhammad Raz Khan	Fedad Khan	J/C	SDEO (M) Timergara	GHSS Akhgram Dir Upper	A.V.P
228.	Zin Ul Haq	Amir Alam Khan	J/C	GHSS Luqman Banda Dir Upper	GHSS Luqman Banda Dir Upper	A.V.P

Chait

APPROVED
10/01/2023

-11-

12

229.	Daudar Ullah	Saimondar Khan	J/C	SDEO (F) Ward Dir Upper	GISS Jalgram Dir Upper	A.V.P
230.	Sultan Nabil	Muhammad Yar Khan	J/C	GIS Nagmi Dir Upper	SDEO (F) Warhal. Dir Upper	A.V.P
231.	Aziz Subhan	Muhammad Jan	J/C	GGHSS Gaudlgar Dir Upper	GGHSS Gaudlgar Dir Upper	A.V.P
232.	Akhter Hussain	Sultan Ali	J/C	GISHS Pamehinar District Kurram	Disposal of DEO. Kurram	A.V.P
233.	Muhammad Islam	Asfandyar Khan	J/C	GHSS Patrak Dir Upper	GISS Patrak Dir Upper	A.V.P
234.	Muhammad Shahid	Ghulam Rabbani	J/C	GHSS Khan Mast Colony Peshawar	GGHSS Babulal Maritan	

Note:-

1. Charge report should be submitted to all concerned.
2. All the DEOs (M/F) concerned are directed to handover charge to the newly promoted Senior Clerks in the station mentioned against each and if the said post is filled by your office then he may be adjusted at your own level being competent authority.

Dr Hafiz Muhammad Ibrahim
DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

Encls: No. 3090-3102 / A-23/MS/Proposal JC to SC/ 2021.

Dated Peshawar the 24/11/2021.

Copy of the above is forwarded for the information and necessary to the:-

1. Account General, Khyber Pakhtunkhwa Peshawar.
2. Director Curriculum & Teaching Education, Khyber Pakhtunkhwa, Abbottabad.
3. Additional Director of Education NMD Peshawar.
4. Director DPD Khyber Pakhtunkhwa, Peshawar.
5. District Education Officers (Male & Female) concerned.
6. District Account Officers concerned.
7. Principals/ Headmasters/ Headmistresses concerned.
8. Sub-Division Education Officers (Male & Female) concerned.
9. Assistant Director (Exam) at DPD Peshawar.
10. Officials concerned.
11. PA to Director E&SE Khyber Pakhtunkhwa, Peshawar.
12. PA to Additional Director (Estab-II) E&SE Khyber Pakhtunkhwa, Peshawar.
13. Muster File.

P. A. Khan
Deputy Director (F&A)
E&SE Khyber Pakhtunkhwa, Peshawar

ATTACHED
to true copy



GOVERNMENT OF KHYBER PAKHTUNKHWA
OFFICE OF THE DISTRICT EDUCATION OFFICER
FEMALE DIR UPPER

No. Phone No: 0944-881900

E-mail: deofdirupper@gmail.com


E-13

-12-

CHARGE ASSUMPTION REPORT

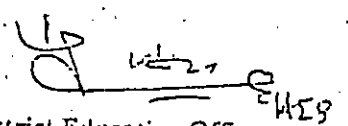
In compliance with the promotion order of Junior Clerk BPS- 11 to Senior Clerk BPS- 14 issued by the Director Elementary & Secondary Education Govt: Khyber Pakhtunkhwa Peshawar Notification No.3090-3102/A-23/MS/Proposal JC to SC/2021 date Peshawar the 24-11-2021.

I Sahibzada Ihtisham Ullah Son of Inayatullah assumed the charge of my duty of Senior Clerk BPS- 14 against vacant post at District Education Office Female Dir Upper today on 24-11-2021 (After Noon).


Sahibzada Ihtisham Ullah
Senior Clerk BPS- 14 24/11/2021
Office of DEO (Female) Dir Upper

Endst No: 7767-70 /F. No.91/DEO (F)/A/DEO (Estb) Secy: Dated Dir Upper the: 24/11 /2021

- Copy forwarded for information:-
- 1- Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
 - 2- District Accounts Officer Dir Upper.
 - 3- Official Concerned.
 - 4- Office Record.


District Education Officer
Female Dir Upper

ATTESTED
to be true Copy

To,

-13-

F-11

Secretary,
Elementary & Secondary Education Department
Khyber Pakhtunkhwa at Peshawar

Subject: REQUEST FOR THE CANCELLATION OF TRANSFER ORDERS DATED 10.4.2023 & 19.4.2023 OF MR. IHTISHAM ULLAH SENIOR CLERK O/O DEO (FEMALE) DIR UPPER

R/Sir,

1. That the applicant is serving as a senior clerk at DEO female office Dir upper since 2021.
2. The the applicant is performing his duty very well and there is no such complaint which against the rules and regulation.
3. That recently without any proper investigation or any inquiry my transfer is placed on the disposal of Directorate of E&SE and then to Dir Lower. It is pertinent to mention here that the administrative ground transfer is favourably on inquiry or allegation base but there is no such inquiry is pending against the applicant.
4. That the transfer is totally on the basis of political approach.
5. That the applicant is ready to face any type of inquiry (if have).
6. That the applicant belongs to a respectable family and due this illegal transfer, reputation of applicant is badly suffering as well as duty in far station will be much harmful for applicant and will face difficulties.
7. The official concerned has also been transfer three times in the last four years all supporting documents are attached for ready reference.

Therefore, it is requested that kindly withdraw/cancelled the transfer orders dated 10.4.2023 and 19.4.2023 in respect of Mr. Ihtisham Ullah senior clerk may kindly be withdrawn/cancelled and oblige.

Thanks

Ihtisham Ullah, Senior Clerk
O/O DEO (F) Dir Upper

ATTESTED
[Signature]

"94 -14-

BEFORE THE PESHAWAR HIGH COURT, PESHAWAR

WRIT PETITION No. 425-M/2023

Mr. Ihtisham Ullah, Senior Clerk (BPS-14),
O/O the DEO (F) Dir Upper under transfer
to GHSS Saddo Dir Lower.

.....**PETITIONER**

V E R S U S

- ①. Government of Khyber Pakhtunkhwa through Secretary (E&S) Education Department, Khyber Pakhtunkhwa, Peshawar.
- ②. The Director (E&S) Education Khyber Pakhtunkhwa, Peshawar.
3. The DEO (F), District Dir Upper.
4. Mr. Zahid Hussain, Senior Clerk (BPS-14) GCMHSS Dir Upper under transfer to the O/O DEO (F) Dir Upper.

.....**RESPONDENTS**

**WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION
OF ISLAMIC REPUBLIC OF PAKISTAN 1973 AS AMENDED UP
TO DATE**

Respectfully Sheweth:

**Facts arising for the institution of instant writ petition are
as under.**

- 1- That the petitioner is a law abiding citizen of Islamic Republic of Pakistan, and reside within the territorial jurisdiction of this august high court.
- 2- That the appellant is an employee of the respondent department and performing her duty as Senior Clerk at the office of DEO (F) Dir Upper.
- 3- That it is worth mentioning that the Election Commission of Pakistan vide orders dated 22.01.2023 banned all kinds of transfers/postings in the provinces of Khyber Pakhtunkhwa and Punjab. Copy of the order dated 22.01.2023 is attached as annexure**A.**
- 4- That the respondents in utter disregard of the orders dated 22.01.2023 the petitioner was transferred vide impugned office orders dated 10.4.2023 and 19.4.2023. Copies of the orders are attached as annexure **B & C.**

PESHAWAR HIGH COURT, MINGORA BENCH
(DAR-UL-OAZA), SWAT

FORM OF ORDER SHEET

Court of

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

Serial No. of order or proceeding	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge and that of parties or counsel where necessary.
1	2	3
	06.07.2023	<p><u>CM No.1291-M/2023</u> <u>In WP No.425-M/2023</u></p> <p><u>Present:</u> Mr. Shamsul-Hadi Advocate for the applicant-petitioner</p> <p>Mr. Khwaja Salah-ud-Din, A.A.G. for official respondents</p> <p align="center">***</p> <p><u>DR. KHURSHID IQBAL, J.---</u> Through the instant CM, the applicant-petitioner seeks suspension of the impugned orders and to allow him to continue to work in the office he has been transferred from. The learned A.A.G present in some other cases was put on notice. He accepted the same. The matter was heard at some length.</p> <p>2. The learned counsel contended that the Election Commission of Pakistan had imposed a complete ban on postings/transfers of public officials. Therefore, the impugned orders are without jurisdiction. Contrarily, the learned A.A.G submitted that the applicant-petitioner is a civil servant and the matter of posting/transfer falls within the ambit of his terms and conditions of service. Therefore,</p>

on account of bar contained under Article 212 of the Constitution, this Court lacks jurisdiction to entertain the instant matter. Added that the petitioner has also filed a departmental appeal before the Appellate Authority. Hence, in view of the doctrine of election, the instant petition is not competent.

3. This court being seized of the interim matter has limited jurisdiction, whereas the grounds agitated essentially go deep to the roots of the controversy involved. Indeed, its judicial examination exclusively falls within the domain of a Division Bench. Record shows that the respondents have already been put on notice. They have filed their para-wise comments as well. No urgency is involved in the instant matter. In the circumstances, it is deemed appropriate that let the grounds urged be left for the judicial scrutiny by a Division Bench. No case for the indulgence of this court at this stage is made out. The CM is, therefore, disposed of accordingly.

Announced
06.07.2023


JUDGE

Office
06/07/2023



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) While making postings/transfer from settled areas to FATA and vice-versa, specific approval of Governor, NWFP needs to be obtained
- vi) While making postings/transfers of officers/officials up to BS-17, from settled areas in 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.
- vii) 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.
- viii) 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 (Thana) of his area/residence is situated.
- ix) No posting/transfers of the officer's/officials on deitainment basis shall be made.
- x) 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.

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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 Governmental Rules of Business, 1985, District Government Rules of Business 2001, Posting/Transfer Policy and other rules for the time being in force, allowed to make posting/transfer subject to observance of the policy and rules. Added vide Urdu circular letter No. SOR-VI(E&AD)1-4/2003, dated 21-09-2004

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- x i) 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
 DCOs 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;
- x ii) 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: a) Within the same Department b) To and from an Attached Department c) Within the Secretariat from one Department to another	Secretary of the Department concerned. Secretary of the Dept in consultation with Head of Attached Department concerned. Secretary (Establishment)

- x ii) 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.

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xiv) Government servants including District Govt. employees feeling aggrieved due to the orders of posting/transfer authorities may seek remedy from the next higher authority / the appointing authority as the case may be through an appeal to be submitted within seven days of the receipt of such orders. Such appeal shall be disposed of within fifteen days. The option of appeal against posting/ transfer orders could be exercised only in the following cases.

- i) Pre-mature posing/transfer or posting transfer in violation of the provisions of this policy.
- ii) Serious and grave personal (humanitarian) grounds.

2. To streamline the postings/transfers in the District Government and to remove any irritant/confusions in this regard the provision of Rule 25 of the North West Frontier Province District Government Rules of Business 2001 read with schedule - IV thereof is referred. As per schedule-IV the posting/transferring authorities for the officers/officials shown against each are as under:-

S. No.	Officers	Authority
1.	Posting of District Coordination Officer and Executive District Officer in a District.	Provincial Government.
2.	Posting of District Police Officer.	Provincial Government
3.	Other Officers in BPS-17 and above posted in the District.	Provincial Government
4.	Official in BPS-16 and below	Executive District Officer in consultation with District Coordination Officer.

3. As per Rule 25(2) of the Rules mentioned above the District Coordination Department shall consult the Government if it is proposed to:

- a) Transfer the holder of a tenure post before the completion of his tenure or extend the period of his tenure.
- b) Require an officer to hold charge of more than one post for a period exceeding two months.

4. I am further directed to request that the above noted policy may be strictly observed /implemented.

All concerned are requested to ensure that tenuras of the concerned officers/officials are invariably mentioned in summaries submitted to the Competent Authorities for Posting/Transfer.

(Authority: Letter No: SOR-V/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.

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 (to be retained)
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VAKALATNAMA
BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

APPEAL No /2023

Intisham Ullah

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS


Education Deptt

(RESPONDENT)
(DEFENDANT)

I/We Appellant

Do hereby appoint and constitute **Noor Mohammad Khattak Advocate Supreme Court** 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. / /202


CLIENT

ACCEPTED


NOOR MOHAMMAD KHATTAK
ADVOCATE SUPREME COURT


WALEED ADNAN


KAMRAN KHAN


UMAR FAROOQ MOHMAND


MUHAMMAD AYUB

&


MAHMOOD JAN
ADVOCATES

OFFICE:

Flat No. (TF) 291-292 3rd Floor,
Deans Trade Centre, Peshawar Cantt.
(0311-9314232)