

# FORM OF ORDER SHEET

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

**Appeal No.** 1769/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	01/09/2023	<p>The appeal of Mr. Falak Naz is re-submitted today by Mr. Afrasiab Khan Wazir Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on</p> <p style="text-align: right;">By the order of Chairman</p> <p style="text-align: right;">REGISTRAR</p>




The appeal submitted by Mr. Afrasiab Khan Wazir Advocate today i.e. on 22.08.2023 is incomplete on the following score which is returned to him for completion and resubmission within 15 days.

1. Copy of order dated 17/5/2023 mentioned in heading of appeal is not attached with the appeal which may be placed on it.
2. Annexure-A of the appeal is illegible which should be replaced with legible/better one.

No. 3105 /S.T,

Dt. 25-08 /2023

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Afrasiab Khan Wazir Adv.  
High Court Peshawar.

Sir, In objection No. 1, in the heading of appeal the mention date is 17-4-2023 which mistakenly due to clerical mistake written as 17-5-2023, hence corrected, which is 17-4-2023.

objection No. 2, legible copy is placed.

  
Dated 01/9/2023

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,  
PESHAWAR

Service Appeal No. 1769-P/2023

Falak Naz

.....Versus.....

Education deptt & Other

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PETITIONER

Through:

  
Afrasiab Khan Wazir  
Advocate High Court

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

Appeal No. 1769 -P/2023

Mr. Falak Naz, Instructor Physical Education (BPS-17),  
GHSS Mama Khel Banochi District Bannu transferred to GHSS Lachi  
District Kohat.

.....**APPELLANT.**

**VERSUS**

- 1- The Government of Khyber Pakhtunkhwa, through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director Elementary & Secondary Education Department, Khyber Pakhtunkhwa, Peshawar.
- 4- Mr. Muhammad Younis, Instructor Physical Education (BPS-17), transferred from GHSS Lachi Kohat To GHSS Mama Khel Banochi District Bannu. (Private Respondent).

.....**RESPONDENTS.**

**APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, READ WITH ALL ENBLING PROVISIONS OF LAW GOVERNING THE SUBJECT AGAINST THE IMPUGNED TRANSFER ORDER DATED 17.03.2023 & 17.4.2023 WHEREBY THE APPELLANT HAS BEEN TRANSFERRED PREMATURELY FROM GHSS MAMA KHEL BANOCHI DISTRICT BANNU TO GHSS LACHI DISTRICT KOHAT IELGALLY AND UNLAWFULLY AND NO ACTION TAKEN ON DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN STATUTORY PERIOD.**

**PRAYER:**

That on acceptance of this instant appeal the impugned transfer order dated 17.03.2023 & 17.4.2023 may very kindly be set aside, declared illegal and unlawful and the respondents may further please be directed to restore posting/adjustment order dated 15.03.2023 of the appellant at GHSS Mama Khel Bannu till completion of his normal tenure. Any other relief which this Tribunal deems fit that may also be awarded in favor of the appellant.

**RESPECTFULLY SHEWETH:**

**ON FACTS:**

**Brief Facts Of The Appeal Are As Following:**

- 1- That the appellant is a law abiding and peaceful citizen and serving as Instructor Physical Education (BPS-17) in the education department.

1- That the appellant moved application to the respondent department for transfer to Bannu against a vacant post there and requesting that appellant is a diabetic patient and cannot travel that long distance from Bannu to Kohat being the only elder at home, which through NOC the very principal of school endorsed that there is a vacancy in a school.

**(Copy of applications and NOC are attached as annexure.....A)**

2- That in response to that appellant was adjusted/posted vide dated 15.03.2023 at the school namely GHSS Mama Khel Bannu by the respondents having vacant post there at that school, against which appellant took charge after relieving from the school.

**(Copy of the posting order dated 15.03.2023, relieving chit, charge report are attached as annexure.....B)**

3- That shockingly the respondents issued impugned transfer order dated 17.03.2023 whereby the appellant is transferred after few days from GHSS Mam a Khel Banochi District Bannu to GHSS Lachi Kohat replaced by respondent No.4 without looking into the issue of appellant.

**(Copy of the impugned transfer order dated 17.03.2023 is attached as annexure..... C).**

4- That the respondents again cancelled/withdrawn the abovementioned impugned order vide order dated 11.04.2023 and placed the appellant at his previous post at Bannu and joined his duty again.

**(Copy of the cancellation order dated 11.04.2023, arrival report are attached as annexure.....D)**

5- That the respondents immediately after few days again restored the abovementioned impugned order vide order dated 17.04.2023 against which the appellant feeling aggrieved moved representation to the appellate authority but the respondents are still mum over it.

**(Copy of restoration order dated 17.04.2023 & representation is attached as annexure.....E & F)**

6- That the appellant further feeling aggrieved and having no other alternate and efficacious remedy but to file this instant service appeal on the following grounds inter alia.

#### **ON GROUNDS;**

A- **That** issuing impugned orders dated 17.03.2023 & 17.05.2023 by respondents is against the law, rules and natural justice, hence liable to be declared illegal, unlawful.

B- **That** the appellant has not been treated in accordance with the law and as such respondents violated article 4 and 25 of the constitution of Islamic republic of Pakistan, 1973 Amended up to date.

C- **That** the unlawful and illegal action of the respondents is connotation of sheer arbitrariness and autocracy which is against the norms of natural justice.

D- **That** the appellant haven't completed his normal tenure at school GHSS Mama Khel Banochi, Bannu and while issuance of impugned order dated 17.03.2023 & 17.04.2023 is against law and rules is liable to be set aside.

E- The transfer posting policy is very much clear about the transfer posting that civil servant will complete his normal tenure after transfer posting, nor any civil servant will be transferred posted any where on the basis of administrative ground while misusing power by the respondents.

F- That the appellant seeks permission to advance any other grounds at the time of regular hearing.

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

PETITIONER

FALAK NAZ

THROUGH:

AFRASIAB KHAN/WAZIR

&

NAZUREHMAN MEHSUD

ADVOCATES

**Certificate:**

That no other appeal has been filed between the parties on the same issue.

Deponent

**Affidavit:**

I Falak Naz, instructor Physical education (BPS-17) do hereby solemnly affirm and declare that the contents of this Instant appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Tribunal.

Deponent

BETTER COPY NO. # 04 ANNEXURE A

To,

The Secretary  
Elementary & Secondary Education Department  
Khyber Pakhtunkhwa, Peshawar.

SUB : REQUEST FOR TRANSFER

Respected Sir,

With profound respect and humble submission it is stated that i a a permanent of District Bannu and work as a IPE bps 17 in education department. Now i am working as SIPE BPS-18 on a wrong post at GHSS LACHI Kohat.

District Kohat is far away from my home district and I am the only one to look aftetr my famly. There is no one elder in my home. t is also added here for your kind information that:-

- i. I am a diabetic and cannot travel daily such a long disrance from Bannu to kohat.ii.
- ii. I am working on wrong post of SIPE BPS-18 while my origina post if IPE BPS-17 which may be adjusted as Mr, Alam Jan IPE BPS-17 GHSS Mamma Khel Banochi District bannu is going on retirement on 12-03-2023 and the post will be vacated w.e.f 13-03-2023.

A very humble request is made to transfer me to the said post in advance.

i Shall be very grateful to young for your positive consideration of my application.

date;\_\_2023

Yours Sincerely,

MR, FALAK NAZ  
IPE BPS-17  
SGHSS Lachi Kohat

The Secretary,  
Elementary & Secondary Education Department, Khyber  
Pakhtunkhwa, Peshawar.

SUB: REQUEST FOR TRANSFER

A - (4)

Respected Sir

With profound respect and humble submission it is stated that I am a permanent resident of District Bannu and work as a IPE bps 17 in education department. Now I am working as SIPE BPS-18 on a wrong post at GHSS LACHI Kohat.

District Kohat is far away from my home district and I am the only one to look after my family. There is no one elder in my home. It is also added here for your kind information that:-

i. I am a diabetic and cannot travel daily such a long distance from Bannu to Kohat.

ii. I am working on wrong post of SIPE BPS-18 while my original post is IPE BPS. 17 which may be adjusted as Mr. Alam Jan IPE BPS-17 GHSS Mamma Khel Banochi District Bannu is going on retirement on 12-03-2023 and the post will be vacated w.e.f 13-03-2023.

A very humble request is made to transfer me to the said post in advance.

I shall be very grateful to you for your positive consideration of my application.

Date:        /2023

Yours Sincerely,

*It seems same request*  
*plz advise*  
*consequential adjustments*

C/o Minister  
Amid Shah

MR. FALAK NAZ  
IPE BPS-17  
GHSS Lachi Kohat

— PLZ satry order list

*[Handwritten signature]*



Office of the Principal GHSS Mama Kheh Banochi Bannu

Subject: No objection Certificate.

It is certified that Mr. Muhammad Alam Jan IPE BS-17 of the Said School is hereby retired on 18-03-2023 (12th, March-2023).

So the said post will be lying vacant from 13-03-2023.

I have no objection on the transfer of Mr. Falak Naz Khan IPE BS-17 GHSS Lache Kohat to GHSS Mama Kheh Banochi Bannu.

PRINCIPAL 01/03/23  
GHSS Mama Kheh Banochi  
Bannu

ATTN: TEL



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION  
DEPARTMENT

Block-"A" Opposite MPA's Hostel, Civil Secretariat, Peshawar  
Phone No. 091-9223533 Email: sschoolmale@gmail.com

2-9  
B-6

NOTIFICATION

Peshawar, Dated: 15<sup>th</sup> March 2023

NO.SO(S/M)E&SED/5-17/2022/PT/SS:

Mr. Falak Naz, IPE (BS-17) GHSS Lachi Kohat

is hereby posted/adjusted at GHSS Mama Khel Bannu, against the vacant post, with immediate effect, in the best public interest.

SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA  
E&SE DEPARTMENT

Endst: of even No. & Date

Copy forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
3. Director, EMIS E&SE Department.
4. District Education Officer (M) Lakki Marwat.
5. District Accounts Officer Lakki Marwat.
6. Principal Concerned.
7. PS to Minister for E&SE Department.
8. PS to Secretary E&SE Department.
9. PA to Deputy Secretary (Estab) E&SE Department.
10. Officer Concerned.
11. Office order file.

15/03/2023  
(TAJ MUHAMMAD)

SECTION OFFICER (SCHOOLS MALE)

ATTSTED



**OFFICE OF THE PRINCIPAL GOVERNMENT HIGHER  
SECONDARY SCHOOL LACHI (KOHAT)**

**RELIEVING CRT**

In compliance of/Transfer order issued under Notification No.SO(S/M) E&SED/5-17/2022/PT/SS: Secretary E&SED KPK Peshawar Dated 15.03.2023. Mr.FALAK NAZ IPE (BPS 17) is hereby relieved of his duties on this day i.e. 16-03-2023 (FN) and he is directed to report to the office of Principal GHSS Mama Khel Banochi Bannu,

*Sd/* Principal,  
GHSS Lachi Kohat

Endst: 1201-06 Dated: 16/03/2023.

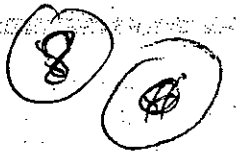
**Copy for information to the:-**

1. Secretary E&SED KPK Peshawar
2. Director E&SED KPK Peshawar
3. District Account Officers Concerned.
4. District Education Officers (M) Concerned.
5. Principal GHSS Mama Khel Banochi Bannu.
6. Principal GHSS Lachi Kohat.

*FSA* 16/03/23  
Principal,  
GHSS Lachi Kohat

ATTN: *[Signature]*

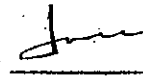
**CERTIFICATE OF TRANSFER OF CHARGE**




In compliance of Notification issued by Section Officer (Schools Male) vide No. SO(S/M)E&SED/5-17/2022/PT/SS: Dated 15<sup>th</sup> March 2023, I, Mr. Falak Naz Khan IPE hereby assume the charge of the post of Instructor Physical Education at GHSS Mamma Khel Banochi Bannu today on 16-03-2023 please.


Relieved by \_\_\_\_\_

Dated: 16-03-2023

Relieving   
Falak Naz Khan IPE BS-17  
GHSS Mamma Khel Banochi Bannu

  
PRINCIPAL  
GHSS Mamma Khel Banochi  
BANNU

Ehdst: No. 94  
Copy forwarded to the:

  
PRINCIPAL  
Dated: 16-03-2023  
GHSS Mamma Khel Banochi Bannu

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director Elementary & Secondary Education Peshawar.
3. Director, EMIS E&SE KPK Peshawar.
4. District Education Officer (M) Bannu.
5. District Accounts Officer Bannu.
6. Principal concerned.
7. PS to Minister E&SE KPK Peshawar.
8. PS to Secretary E&SE KPK Peshawar.
9. PA to Deputy Secretary (Estab) E&SE KPK Peshawar.
10. Officer concerned.
11. Office order file.

  
PRINCIPAL  
GHSS Mamma Khel Banochi  
BANNU

  
PRINCIPAL  
GHSS Mamma Khel Banochi Bannu

**ATTACHED**



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT  
Block-"A" Opposite MPA's Hostel, Civil Secretariat  
Peshawar

Phone No. 001-0223033

Dated Peshawar the March 17, 2023

**NOTIFICATION**

**NO.SO(SM)E&SED/5-17/2023/PT/PRINCIPAL:** The posting/transfer of the following Officer is hereby ordered with immediate effect, in the best public interest:-

S#	NAME & DESIGNATION	FROM	TO
01	Mr. Muhammad Younus IPE (BS-17)	GHSS Lachi Kohat.	IPE (BS-17) GHSS Mama Khel Banochi, Bannu. Vice S.No 02
02	Mr. Falak Naz IPE (BS-17)	GHSS Mama Khel Banochi, Bannu.	IPE (BS-17) GHSS Lachi Kohat. Vice S.No 01

SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA  
E&SE DEPARTMENT

**Endst: of even No. & Date**

**Copy forwarded to the:**

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Male) concerned.
4. District Accounts Officer concerned.
5. Director, EMIS E&SE Department.
6. PS to Minister for E&SE Department.
7. PS to Secretary E&SE Department.
8. PA to Deputy Secretary (Admn) E&SE Department.
9. Officers concerned.
10. Office order file.

(MUHAMMAD ISHAQ)  
SECTION OFFICER (SCHOOLS MALE)

17/3/23

ATTSTED



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT  
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar  
Phone No. 091-9223533 Email: sschoolmale@gmail.com

**NOTIFICATION**

**Peshawar, Dated: 11<sup>th</sup> April 2023**

**NO.SO(SME&SED/5-17/2023/PT/PRINCIPAL):** This Department's Notification of even Number dated 17.03.2023 is hereby withdrawn ab-intio, in r/o Mr. Falak Naz IPE (BS-17) appearing at Sr. No.02, in the best public interest.

**SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA  
E&SE DEPARTMENT**

**Endst: of even No. & Date**

Copy forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
3. Director, EMIS E&SE Department.
4. District Education Officer (M) Concerned.
5. District Accounts Officer (Concerned).
6. PS to Advisor to CM, E&SE Department.
7. PS to Secretary E&SE Department.
8. PA to Additional Secretary (Estab) E&SE Department.
9. Principal concerned.
10. Officer Concerned.
11. Office order file.

(MUHAMMAD ISHAQ) 11/4/23  
SECTION OFFICER (SCHOOLS MALE)

ATTACHED

To

(11)

the principal

GHSS mama khel Banochi Bannu.

Arrival report.

In compliance to the Secretary  
Elementary and Secondary Education

Department Khyber Pakhtunkhwa

notification issued No-SO(CSM) Ea SED/5-17/2023/

PT/ PRINCIPAL Dated 11-04-2023

I Mr Falak Naz IPE BPS No-17

made my arrival for duty today

on 15-04-2023 (B.F) accordingly please

Arrival Accepted

Principal, 15/04/2023

PRINCIPAL  
GHSS Mama Khel Banochi

Falak Naz IPE  
BPS-17

GHSS. mama khel  
Banochi Bannu.

Dated 15-04-2023

ATTSTED



**GOVERNMENT OF KHYBER PAKHTUNKHWA**  
**ELEMENTARY & SECONDARY EDUCATION DEPARTMENT**  
Block 'A' Opposite MPA's Hostel, Civil Secretariat Peshawar  
Phone No. 091-9223533 Email: eschoolmate@gmail.com

Peshawar, Dated: 17<sup>th</sup> April 2023

**NOTIFICATION**

**NO.SO(SME&SED/5-17/2023/PT/PRINCIPAL):** This Department's Notification of even Number dated 17.03.2023 is hereby restored, in r/o Mr. Falak Naz IPE (BS-17), in the best public interest.

**SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA**  
**E&SE DEPARTMENT**

**Endst: of even No. & Date**

Copy forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director, E&SE, Khyber Pakhtunkhwa, Peshawar.
3. Director, EMIS E&SE Department.
4. District Education Officer (M) Concerned.
5. District Account's Officer (Concerned).
6. PS to Advisor to CM, E&SE Department.
7. PS to Secretary, E&SE Department.
8. PA to Additional Secretary (Estab) E&SE Department.
9. Principal concerned.
10. Officer Concerned.
11. Office order file.

(MUHAMMAD ISHAQ) 17/4/23  
SECTION OFFICER (SCHOOLS MALE)

ATTACHED



To,

The Chief Secretary, Khyber Pakhtunkhwa,  
Peshawar.

Subject: **Departmental appeal against the impugned orders dated 17.03.2023 and 17.04.2023 whereby the appellant has been transferred within few days to Lachi Kohat by the respondents illegally and unlawfully after transfer/posting to GHSS Mamma Khel Banochi Bannu vide dated 15.03.2023.**

Respected Sir,

With great reverence it is humbly submitted that I am the employee of your department and serving as Instructor Physical Education BPS-17 at GHSS Mamma Khel Banochi Bannu till dated. Seeking your due attention towards my issue, that I am diabetic patient and my home station is bannu and due to diabetes issues I couldn't travel to kohat on daily basis as I was posted at GHSS Lachi District Kohat on wrong Post of SIPE (BPS-18), and I requested through applications to department to transfer me on vacant post at GHSS Mamma khel Banochi bannu. In response to that NOC was also granted to me by the head of the school to be transferred on the vacant post. Whereas, after accepting my request I have been transferred from GHSS Lachi Kohat on the vacant post at GHSS Mamma Khel Banochi Bannu. So I embarked on doing my duty hole heartedly at the very school after immediate posting.

Shockingly the respondents without looking into my issues and health condition, within short span of few days the respondents issued another order vide dated 17.03.2023 thought which I have been transferred from GHSS Mamma Khel Banochi Bannu to GHSS lachi kohat being very heart aching order. Recently the aforementioned order was cancelled/withdrawn vide order dated 11.04.2023 but later on vide order dated 17.04.2023 my transfer posting order dated 17.03.2023 is restored again. The issuance of impugned order dated 17.03.2023 and later on restoration vide order dated 17.04.2023 by the respondents is against law and rules and vide various judgments of the supreme court it is condemned that no one is allowed to accede from their own authority and act in periphery of law and rules.

It is therefore, most humbly prayed that on acceptance of this departmental appeal the impugned order dated 17.03.2023 & 17.04.2023 may very kindly be set aside and i be retained at my current place of posting meaning thereby at GHSS Mama Khel Banochi bannu. Any other relief which your good-self deems fit that may also be awarded in my favor.

Dated: 27/04/2023

APPELLANT

Falak Naz

IPE (BPS-17)

GHSS Mama Khel,  
Banochi Bannu

~~ATTESTED~~

**POWER OF ATTORNEY/VAKALATNAMA**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES PESHAWAR**

*Falok No 2*

VERSUS

*Identia Dept of Fibers*

Appeal No. \_\_\_\_\_-P/2023

On behalf of Petitioner/Appellant No.

I/ we the petitioners/appellant hereby appoint **Mr. Afrasiab Khan Wazir** Advocate in the above-mentioned case, to do all or any of the following acts, deeds things.

1. To appear, act, sign, record Statement and plead for me/us in the above-mentioned case in this court /Tribunal or any other Court /Tribunal in which the same may be tried or heard, and other proceedings arising out of or connected therewith.
2. To sign, verify compromise and file or withdraw all proceedings, petitions, appeals, affidavits, and any other documents; as may be deemed necessary or advisable by them for the conduct, prosecution or defense of the said case at its stages.
3. To receive payments of, and issue receipts for, all money that may be or become due and payable to us during the course or on the conclusion of the proceedings.
4. To do all other acts and things which may be deemed necessary or advisable during the proceedings.

**AND HEREBY AGREE:**

- a. To ratify whatever the said advocate may do in the proceedings.
- b. Not to hold the Advocate responsible if the said case be proceeded ex-parte or dismissed in default in consequence of absence from the Court/Tribunal when it is called for hearing.
- c. That the Advocate shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fees remains unpaid.
- d. That no other counsel/advocate shall be engaged in this case until NOC is granted by my counsel/advocate.
- e. That the counsel/advocate shall not be responsible if the case is dismissed in default due to none payment of complete fee to the advocate/counsel due in time.

In witness whereof, I/We have signed this power of Attorney/ Vakalatnama hereunder, the contents of which have been read/ explained to me/us and fully understood by me/ us.

Terms Accepted

Signatures

*Accepted & Attested*

*Afrasiab Khan Wazir*

*Advocate Peshawar High Court, Peshawar.*