

FORM OF ORDER SHEET

Court of _____

Appeal No. 1768/2023

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. Rasheed Muhammad is re-submitted today by Mr. Malik Ashfaq Ahmed Jilani 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>

BEFORE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Appeal No. ___ Of 2023

Rasheed Muhammad Appellant

Versus

Govt of KPK through Secretary E&S Education Peshawar etc.

Respondents

APPLICATION FOR FIXATION AN EARLY DATE IN
the ABOVE MENTION APPEAL INSTEAD OF
/2023 at Principal Seat, Peshawar.

Respectfully Sheweth,

Petitioner submits as under:-

1. That applicant was transferred from the Gps Mundhaiar To Gps Bela Scha (Hangari) Balakot which was challenged by applicant in this Hon'ble Tribunal.
2. That the instant appeal is instituted today 01/09/2023 in which application for grant of temporary injunction against the respondents till the final disposal of instant appeal.
3. That the appellant belongs to Mansehra therefore, the instant appeal is hearing at Abbottabad bench.
4. That the agency involved the instant appeal therefore, the instant appeal may please be hearing at Principal Seat.
5. It is in the interest of justice to fix the date for arguments as early as possible keeping in view the above submission.

It is, therefore, most humbly prayed that on acceptance of this Application, the instant appeal may kindly be fixed on an early date as soon as possible.

Dated: 01/09/2023

Applicant

Rasheed Muhammad (PHST)

Through

Advocate

Malik Ashfaq Ahmad Jillani

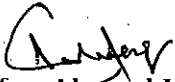
Advocate High Court

This is an appeal filed by Mr. Rasheed Muhammad today on 10.07.2023 against the order dated 29.04.2023 against which he made/preferred departmental appeal/representation on 02.05.2023 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, which is premature as laid down in an authority reported as 2005-SCMR-890.

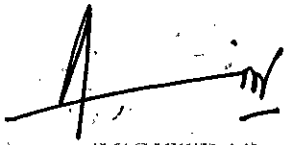
As such the instant appeal is returned in original to the appellant/Counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action.

No. 1883/ST,

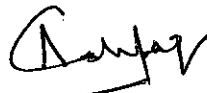
Dt. 10/7/2023.



Malik Ashfaq Ahmed Jillani Adv.
High Court Manshra.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

The appeal is now mature.


01/09/2023

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BEFORE THE SERVICE TRIBUNAL
K.P.K PESHAWAR

Service appeal No 1768 of 2023

Rasheed Muhammad Appellant

VERSUS

The Govt. of KPK through Secretary E&S
Education Peshawar etc Respondents

APPEAL
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Dated 07.07.2023


Rasheed Muhammad
(Appellant)

Through:-


MALIK ASHFAQ AHMED JILLANI
ADVOCATE HIGH COURT
Mansehra

BEFORE THE SERVICE TRIBUNAL
K.P.K PESHAWAR

Service appeal No 1768 of 2023

Rasheed Muhammad, Head Teacher (PHST),
Govt. Primary school Mundhiar Circle
Mansehra.....**Appellant**

VERSUS

- 1) Government of Khyber Pakhtunkhwa
through Sectary Elementary and
Secondary Education Peshawar.
- 2) Director Elementary and Secondary
Education Peshawar.
- 3) District Education Officer Male
Manshera.
- 4) Sub Divisional Education Officer
(SDEO) Mansehra.
- 5) Attiq ur Rehman, PHST Govt Primary
School Dakhan Di Dhaki, Tehsil
Balakot, District Mansehra.

.....**Respondents**

APPEAL UNDER SECTION 4 OF KPK
SERVICE TRIBUNAL ACT, 1974 AGAINST
THE IMPUGNED ORDER NO.3914-19
DATED 29.04.2023, PASSED BY

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RESPONDENT NO.3 WHEREBY APPELLANT
IS TRANSFERED FROM GPS MUNDHIAR
TO GPS BELA SCHA (HANGARI) BALAKOT,
AND RESPONDENT NO.5 IS ADJUSTED TO
BE GPS MUNDHIAR MANSEHRA, WHICH IS
AGAINST THE LAW, FACTS,
CIRCUMSTANCES, VOID, ILLEGAL, UNDER
THE POLITICAL PRESSURE, AGAINST THE
RULES OF NATURAL JUSTICE AND
AGAINST THE DEPARTMENTAL POLICY.

PRAYER:-

On the acceptance of the instant service appeal, the impugned order bearing no.3914-19 dated 29.04.2023 passed by respondent No.3 may kindly be set aside declaring it illegal and against the law on the subject and the transfer of the appellant to be cancelled.

Respectfully Sheweth:-

1. That, the appellant was serving in Education Department as Primary School Teacher presently posted at GPS Mundhiar Mansenra.

(Copy of transfer order dated 19.09.2022 is annexed as Annexure "A").

2. That, the appellant was performing his duty efficiently and honestly as per the rule and regulations of the departmental policies.
3. That, the respondents transferred the appellant through order no. 3914-19 dated 29.04.2023 from the GPS Mundhiar to GPS Beala Sacha (Hangari) Balakot just after seven months of the posting, which is illegal, against the law, fact, circumstances, void, under political pressure and against the departmental policy, rule, and regulation.

(Copy of transfer order No.3914-19 dated 29.04.2023 is annexed as annexure "B")

4. That, the appellant filed a departmental appeal dated 02.05.2023. with respondent No.2 through post. Which is still pending up till now.

(Copy of departmental appeal is annexed as annexure "C").

5. That, the appellant being aggrieved from the impugned order no. 3914-19 dated 29.04.2023 and act of respondent no.3 (officials) seek the gracious indulgence of this honourable tribunal inter alia on the following grounds:

GROUND:

- A) That, the appellant is the permanent residence of Village Bhoraj, Tehsil & District Mansehra and he is unable to travel Bela Sacha Hangari Tehsil Balakot daily. The Bela Sacha Hangari is fore situated 40/50 Kilometers from the residence of appellant.
- B) That, the wife of petitioner also serving in Education Department, she posted in GGPS Bhoraj Mansehra. The impugned transfer order is against the supposes policy.
(copy of spouses policy annexed as annexure "D").
- C) That, the appellant nearby retirement, only 17 months service is left, according to policy Government employee service his last year in own chose place.
- D) That, the act of respondents is illegal, void, based on mala-fide, discriminatory and under the political pressure and against the departmental policy or basic statute.
- E) That, the respondents pressurised, harass the appellant and there is also political pressure, which is clear from impugned order bearing No. 3914-19 dated 29.04.2023.

- F) That, the act of respondent is quite clear from the impugned order no.3914-19 dated 29.04.2023 which is against the natural justice, departmental policy, fair play, and equity.
- G) That, the respondents violated the rules and regulations regarding the arrival of appellant.
- H) That, the respondent No.5 did not get any proposal for transfer of appellant and the transfer was made just due to political influences.
- I) That, the respondents brushed aside all the relevant services rules and regulations.
- J) That, appellant is an honest, dedicated teacher and there is no complaint against the appellant in the whole period of his service.
- K) That, the entire period of his service/carrier spend in heard/fore long area/station.
- L) That, the appellant preferred the Departmental representation/appeal to the respondents but respondents still no response/reply to the appellant.

- M) That, the powers or jurisdiction are vested in an authority to exercise it justly, fairly, honestly, judiciously and in accordance the mandate of law, rules and regulations but the respondents have transgressed upon their powers/ jurisdiction while dealing with the matter in hand.
- N) That, it is an inalienable right of the appellant to enjoy the protection of law, rules and regulations but such right of the appellant has been infringed by the respondents in a sheer malafide manner.
- O) That, the instant appeal is well within time.


PRAYER

On the acceptance of the instant service appeal, the impugned order bearing no.3914-19 dated 29.04.2023 passed by respondent No.3 may kindly be set aside declaring it illegal and against the law on the subject and the transfer of the appellant to be cancelled.

Dated 07.07.2023


Rasheed Muhammad
(Appellant)

Through:-


MALIK ASHFAQ AHMED JILLANI
ADVOCATE HIGH COURT
Mansehra

VERIFICATION/CERTIFICATE :

I, Rasheed Muhammad, Head Teacher (PHST), Govt. Primary school Mundhiar Circle Mansehra, do hereby solemnly affirm and declare that the contents of fore-going Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed or suppressed from this Honorable Tribunal.


Rasheed Muhammad
(DEPONENT)

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BEFORE THE SERVICE TRIBUNAL
K.P.K PESHAWAR

Service appeal No _____ of 2023

Rasheed MuhammadAppellant

VERSUS

The Govt. of KPK through Secretary E&S
Education Peshawar etcRespondents

APPEAL

AFFIDAVIT

I, Rasheed Muhammad, Head Teacher (PHST), Govt. Primary school Mundhiar Circle Mansehra, do hereby solemnly affirm and declare on oath that the no such subject matter appeal has ever been filed before this honorable court nor pending nor decided. That the contents of fore-going affidavit are true and correct to the best of my knowledge and belief and nothing has been concealed or suppressed from this Honourable tribunal.

Dated 07.07.2023


Rasheed Muhammad
(DEPONENT)

BEFORE THE SERVICE TRIBUNAL
K.P.K PESHAWAR

Service appeal No _____ of 2023

Rasheed MuhammadAppellant

VERSUS

The Govt. of KPK through Secretary E&S
Education Peshawar etcRespondents

APPEAL


APPLICATION FOR THE GRANT OF
TEMPORARY INJUNCTION AGAINST THE
RESPONDENTS TILL THE FINAL DISPOSAL
OF INSTANT APPEAL.

Respectfully Sheweth:

1. That the instant appeal is being filed by the petitioner before this honourable Tribunal.
2. That the instant application is integral part of instant appeal.
3. That the appellant has good prima facie case, balance of convince is also in favor of appellant and if temporary injunction is not granted the petitioner suffer irreparable lose.

It is humbly prayed that on the acceptance of this application order dated 19.09.2022 be stayed till the decision of the instant appeal and respondent No. 04 may please be directed to release the salary of petitioner.

Dated 07.07.2023


Rasheed Muhammad
(Appellant)

Through:-

MALIK ASHFAQ AHMED JILLANI
ADVOCATE HIGH COURT
Mansehra

AFFIDAVIT!

I, Rasheed Muhammad, Head Teacher (PHST), Govt. Primary school Mundhiar Circle Mansehra, do hereby solemnly affirm and declare that the contents of fore-going application are true and correct to the best of my knowledge and belief and nothing has been concealed or suppressed form this Honorable Tribunal.

Dated: 07.07.2023


Rasheed Muhammad
(DEPONENT)

BEFORE THE SERVICE TRIBUNAL
K.P.K PESHAWAR

Service appeal No _____ of 2023

Rasheed Muhammad **Appellant**

VERSUS

The Govt. of KPK through Secretary E&S
Education Peshawar etc **Respondents**

APPEAL

CORRECT ADDRESSES OF THE PARTIES

APPELLANT:

Rasheed Muhammad, Head Teacher (PHST),
Govt. Primary school Mundhiar Circle
Mansehra.

RESPONDENTS:

- 1) Government of Khyber Pakhtunkhwa through Sectary Elementary and Secondary Education Peshawar.
- 2) Director Elementary and Secondary Education Peshawar.
- 3) District Education Officer Male Manshera.
- 4) Sub Divisional Education Officer (SDEO) Mansehra.
- 5) Attiq ur Rehman PHST Govt Primary School Dakhan Di Dhaki, Tehsil Balakot, District Mansehra.

Dated 07.07.2023

Rasheed Muhammad
(Appellant)

Through:-

MALIK ASHFAQ AHMED JILLANI
ADVOCATE HIGH COURT
Mansehra

2/10
19-9-2022

Attended
G. J. J.

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Annex - A

OFFICE OF THE SUB DIVISIONAL EDUCATION OFFICER (MALE) MANSEHRA



E.mail Address: sdeommansehra@gmail.com
Phone No, 0997-300122



ORDER.

Mr. Rasheed Muhammad PSHT (Surplus) GPS Mangwal is hereby adjusted at GPS Mundihaar against the vacant post on his own pay and grade in the interest of public service with immediate effect.

Note:

1. Charge Report should be submitted to all concerned.
2. No TA/DA is allowed to anyone.

Sd/-
SUB DIVISIONAL EDUCATION OFFICER
(MALE) MANSEHRA

Endst: No 1322-27 /Adjustment.File/

Dated 19/9 /2022

Copy to the :-

8. District Accounts Officer Mansehra.
9. Sub Divisional Education Officer (M) Baffa.
10. ASDEO Circle Concerned.
11. Head Teacher concerned.
12. Incharge EMIS cell local office.
13. Teacher Concerned.
14. Office order file.

SUB DIVISIONAL EDUCATION OFFICER
(MALE) MANSEHRA



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) MANSEHRA

*Affected
Dershan*

Phone #: 0997-382271 Fax #: 0997-382244
E-mail Address: edoedu_mansehra@yahoo.com
Face book Page: www.facebook.com/DEOMMANSEHRA

TRANSFER / ADJUSTMENT

P-13

*Annex
B*

Consequent upon relaxation of ban by Election Commission of Pakistan vide No. F-10 (1) 2023 Elec II dated 28-02-2023 and Establishment Deptt No. SO (E-IV)/E&AD1-14 (G)2023 dated Peshawar 09-03-2023 and E&SE Deptt No.SO (G) E&SED/1-15/2023 dated 09-03-2023 and endorsed by Directorate of Elementary & Secondary Education KP Peshawar vide No. 7469-7532 dated 10-03-2023 regarding NOC in Ban for below B-16, The Following Under Disciplinary Action Transfer is hereby ordered in the best interest of public service with immediate effect.

S#	Name & Desig:	From	To	Remarks
1.	Rasheed Ahmed (PSHT)	GPS Mundhiar	GPS Bela Sacha(Hangrai)	A.V Post On Disciplinary Ground

Note:

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

-Sd/-
DISTRICT EDUCATION OFFICER
(MALE) MANSEHRA

Dated *29/04* 2023

Endst: No *3914-191*
Copy for information to the:

1. District Account Office Manshera.
2. District Monitoring Officer (EMA) Manshera.
3. A.D EMIS Branch Local office.
4. Budget & Account Branch Local office.
5. SDEO (M) Concerned.
6. Official Concerned.
7. Office Order File.

DY: DISTRICT EDUCATION OFFICER
(MALE) MANSEHRA

کھنڈا - ڈاکٹر بلال ایجوکیشن سروس - صاحب پشاور

Almoo

محکمات اپیل کے برخلاف آرڈر ٹرانسفر لاہور

ایڈوکیٹ نمبر 19-3914-3914 مورہ 29-04-2023

صاحب عدالت

اپنے روبرو عرض ہے

1. بہت سے سال قبل تعلیم میں عرصہ 36 سال سے بطور PSHI گریڈ 15 میں ملازمت سرانجام دے رہا ہے

2. بہت سے سال کا ایڈوکیٹ آرڈر مورہ 19-09-2022 کو گورنٹ پرائمری سکول منڈھاہر سہیل مانیرہ ہوا تھا

3. بہت سے سال سے ماٹرنہ طور پر چارج لے کر ڈیوٹی دینا شروع کیا

4. بہت سے سال سے عرصہ 7 ماہ ادب گزرا کے بعد ڈیوٹی ڈسٹریکٹ ایجوکیشن

آفیسر مانیرہ کے لبریری وک کے سال کا ٹرانسفر آرڈر گورنٹ پرائمری منڈھاہر سکول سے گورنٹ پرائمری سکول بیلہ سچہ پنڈری کر دیا۔ جو کہ سراسر غلط، خلاف

قانونت خلاف پالیسی، خلاف واقعہ ہونے کے ساتھ ساتھ مینیجر بددیہی کا منہ بولنا بیوقوف ہے۔ سال ایسے غیر عادلانہ آرڈر کا قطعاً یا نہیں ہے

5. یہ کہ سال کا ملازمت کا دورانیہ بھی الجھی پورا نہیں ہوا تھا کہ سال کو لبریری کے دور دراز علاقہ میں ٹرانسفر کر دیا ہے

6. بہت سے سال کی زوجہ بھی سرکاری ملازمت ہے جو کہ اپنے ماؤں بھوج (مختل و مہل) مانیرہ میں بطور PSHI ڈیوٹی سرانجام دے رہی ہے یوں مندرجہ بالا آرڈر سپاہ میں پالیسی کے بھی خلاف ہے

7. بہت سے سال کا آرڈر ایس ایف پاکستان کی طرف سے (ban) میں سے باوجود کیا گیا ہے جو سراسر غلط، خلاف قانون اور بددیہی اور زانیہ انصاف کا منہ بولنا بیوقوف ہے

لہذا استدعا ہے کہ درخواست اٹھانے کو منظور فرمائے بغیر ایسی آرڈر ٹرانسفر نمبر 19-3914-3914

مورہ 29-04-2023 کو تسلیل فرمائے سال کو اپنے سکول گورنٹ پرائمری سکول منڈھاہر مختل و مہل مانیرہ میں ڈیوٹی سرانجام دینے کا حکم صادر فرمایا جائے

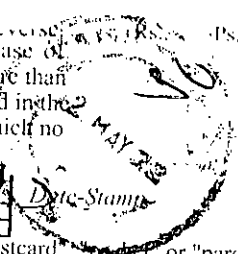
رشد محمد PSHI گورنٹ پرائمری سکول منڈھاہر سہیل مانیرہ - سال

02/2023
مختل و مہل مانیرہ

No. 1357

RGL105970457

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Kilo

(in words)

Grams

Name and address of sender

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2/5/23

Policy of posting of serving Husband/
Wife in the same station.

Accepted
[Signature]

P-15
Annex
D

Sl.No.9

The following policy of the Federal Government with regard to the posting of husband and wife at one station of duty, has been adopted by the Provincial Government of NWFP in respect of its employees working in Government Departments, Autonomous and Semi-Autonomous Bodies in the NWFP:-

- (i) Where a request is made for posting at a different station in the same department/service/cadre in which an employee is already serving, the request may be accepted subject to availability of a post in the same BPS.
- (ii) If a request involves temporary deputation to another department, it may be processed in consultation with the concerned department, and may be accepted on the prescribed terms of deputation subject to availability of a post in the same BPS.
- (iii) When a request is made for permanent transfer to/absorption in another department/agency, the request may be processed in consultation with the department concerned, subject to the condition that in the event of permanent transfer, seniority shall be

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determined in accordance with Section 8 of the NWFP Civil Servants Act, 1975 read with Rule 17 of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rules, 1989.

- (iv) If there is a tie between two or more Government servants for posting at the same station in the same department/unit of an organization, the Government servant with greater length of service may be preferred.
- (v) Request for posting by a spouse facing serious medical problems may be accorded highest priority.
- (vi) Husband already posted at one station, including those posted on deputation beyond the prescribed maximum period, may normally not be disturbed without compelling reasons of public interest. Requests for extension of deputation period beyond the permissible limit may be considered with compassion if interests of public service would permit.

2. The above guidelines are subject to the following conditions:-

- (i) Posting of husband and wife at the same station should not be made by dislocation of any Government servant already serving at a particular station unless his transfer is necessitated by compelling reasons of public interest or within the frame work of general policy of postings and transfer.
- (ii) The prescribed selection authority should be consulted in each case.

3. It is requested to follow the above policy strictly in letter and spirit.

(Authority:- Circular letter No.SOR(S&CAD)-185(V.I), dt: 11.7.98)

Decision of the Provincial Cabinet meeting held on 8.7.99

وکالت نامہ

عدالت عالیہ سندھ سرسبز ٹریبیونل، KPR پیسہ
 رشید محمد نام سٹی ایجوکیشن وغیرہ
 دعویٰ نمبر ایس ایچ جی 111/2023

باعث تحریر آئندہ

اندریں مقدمہ نمبر 111/2023 کے تحت عدالت عالیہ سندھ کے فیصلے کے مطابق

ملک اشفاق احمد جیلانی ایڈووکیٹ ہائی کورٹ مانسہرہ

کوہ میں شہرہ ویکیل مقرر کیا ہے میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہوتا رہوں گا اور بوقت پکارے جانے پر وکیل صاحب موصوف کو اطلاع دیکر حاضر کروں گا اگر کسی پیشی پر منظر حاضر نہ ہوں اور غیر حاضری کی وجہ سے کسی طور پر مقدمہ میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے۔ نیز ویکیل صاحب موصوف صدر مقام پکھری کے ساڈہ کسی اور جگہ پکھری کے مقررہ اوقات سے پہلے یا بروز تعطیل پیروی کرنے کے مجاز نہ ہوں گے۔ اگر مقدمہ مقام پکھری کے کسی اور جگہ باعث ہونے پر بروز پکھری کے اوقات کے آگے یا پیچھے ہونے پر منظر کو کوئی نقصان پہنچے تو ذمہ دار یا اس کے واسطے کسی معاوضہ ادا کرنے، مختار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے کہ مجھے کل ساختہ پرداخت صاحب مثل کردہ ذات خود منظور قبول ہو گا اور صاحب موصوف کو عرضی دعویٰ اور درخواست اجراء ڈگری و نظر ثانی اپیل کرنی دائر کرنے نیز روپیہ وصول کرنے اور رسید دینے اور داخل کرنے کا ہر قسم کا بیان دینے اور سپردگاری وراثی نامہ فیصلہ بر خلاف کرنے و اقبال دعویٰ کا اختیار ہو گا اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یکطرفہ درخواست حکم امتناعی یا ڈگری قبل از فیصلہ اجراء ڈگری بھی صاحب موصوف کو بشرط ادا جنگی علیحدہ پیروی مختار نامہ کرنے کا مجاز ہو گا اور بصورت ضرورت اپیل یا اپیل کے واسطے کسی دوسرے ویکیل یا ایڈووکیٹ کو بجائے اپنے ہمراہ مقررہ کریں اور ایسے مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے جیسے صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہو گا کہ مقدمہ کی پیروی نہ کریں اور ایسی حالت میں میرا مطالبہ صاحب موصوف کے برخلاف نہیں ہو گا۔ مختار نامہ لکھ دیا ہے کہ یہ سند ہے۔ مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

2023

مورخہ

07/07/2023

ATTESTED & ACCEPTED

Malik Ashfaq Jillani

Advocate High Court

رشید محمد PHST گورنمنٹ لائبریری سکول منڈھار
 سرفیل صاحبین محلہ ضلع مانسہرہ
 ایپلٹ