27.1,2014

Junior to counsel for the appellant present and requested for time to deposit security and process fee.

Request is accepted. Process fee and security be deposited within 7 days. To come up for written reply on 15.4.2014.

MEMBER

15.4.2014.

Neither appellant nor his counsel present. Security and process fee have also not been deposited. Hence, the appeal is dismissed under Rule 10 of the Khyber Pakhtunkhwa Service Tribunal Rules, 1974. File be consigned to the record.

ANNOUNCED 15.4.2014.

MEMBER

**MEMBER** 

28.11.2013

Counsel for the appellant present and submitted an

application for early hearing. To come up for arguments on early hearing application on 02.12.2013.

02.12.2013

Appellant with counsel present and heard. Contended that the transfer order dated 11.11.2013 issued by respondent No.3 was not in accordance with law, hence the same is liable to be cancelled. Appellant filed departmental appeal on 23.11.2013, which was rejected on 25.11.2013, hence the present appeal on 26.11.2013. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notice be issued to the respondents for submission of written reply on 27.01.2014. Appellant also filed an application for grant of status-quo against the impugned order dated 11.11.2011, till final disposal of the instant appeal. Notice of application should also be issued to the respondents for reply/arguments on the date fixed.

Member

02.12.2013

This case be put before the Final Bench for further proceedings.

# Form- A FORM OF ORDER SHEET

Court of Total Services	
200000000000000000000000000000000000000	•
Caca National	1541/2013

•	Case No		1541/2013
S.No.	Date of order	Orde	or other proceedings with signature of judge or Magistrate
	Proceedings		
1.	2		3
1.	2		3
•	25/44/20		i.
1	26/11/2013		The appeal of Mr. Muhammad Yousaf presented today
		by M	r. Muhammad Saeed Zahir Advocate may be entered in the
			ution register and put up to the Worthy Chairman fo
	1	160	
		preli	minary hearing.
			100
			REGISTRAR /
2			
۷ .	27-11	(0) [3] 建	This case is entrusted to Primary Bench for preliminary
		hi hear	ng to be put up there on $27-12-2013$
			$\mathcal{M}$
,			CHAIRMAN
		经自过	
			•
•	14		
. •			
-			
. •			•
•			

#### BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No.

/2013.

Mohd.Yousaf(SCT).Vs. Secretary Elementary Education etc.

#### APPLICATION FOR EARLY HEARING

\*\*\*\*

#### Respectfully Sheweth:

- 1- That the instant appeal along with stay application is fixed for hearing on 27/12/2013.
- 2- That in the instant appeal, urgent matter is involved and stay application is also filed with the instant appeal.
- 3- That if the stay application is not heard at an early date, then the appeal of the appellant will become infructuous.

It is, therefore, humbly prayed that the instant appeal may please be fixed at an early date.

Appellant,

Through: (Muhammad Saeed Zahir),

Advocate, Peshawar.

Mohammad Saeed Zalisar

Advocate,

High Court Peshawar.

28-11-13

# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHWAR.

Pakhtunkhwa Peshawar...... Respondents

## **SERVICE APPEAL**

#### **INDEX**

S No.	Description	Page No.	Annexture
1	Service appeal along with affidavvit	1 to 3	
2	Stay application	4-5	
3	Staff attendance register	6	"A"
4	Copy of cancelation order	7	В
5	Copy of order dated 11/11/2013	8	С
6	Copy of final order	9	D
7	Wakalat nama	10	

Dated 26/11/2013

Through

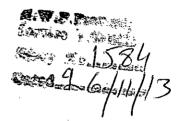
Mohhamad Saeed Zahir

Advocate



## BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHWAR.

Service Appeal No. 1 541 /2013.



#### Versus

- 1. Secretary Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.
- 2. Director Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.
- 3. District Education Officer, Abbottabad.

Respondents

APPEAL UNDER SECTION 4 OF SERVICE TRIBUNAL ACT 1974
AGAINST THE IMPUGNED ORDER NO.8650-53 DATED
11/11/2013 ISSUED BY RESPONDENT NO.3 VIDE WHICH THE
APPELLANT WAS TRANSFERRED FROM GHSS NAGRI BALA
AND ORDER NO. 2942 DATED 25/11/2013 WHICH WAS PASSED
IN DEPARTMENTAL APPEAL OF THE APPELLANT.

PRAYER: ON ACCEPATNCE OF INSTANT APPEAL, BOTH THE IMPUNGNED ORDERS MAY GRACIOUSLY BE SET ASIDE BEING ILLEGAL, UNLAWFUL, AGAINST THE LAW, POLICY AND MERIT, AND RSPONDENTS BE DIRECTED TO CANCELL THE IMPUGNED ORDER OF THE APPELLANT IN THE BEST INTEREST OF JUSTICE.

#### RESPECTFULLY SHEWETH:

1. That the appellant initially was appointed as junior clerk on 22/4/1976 and then promoted as CT teacher in November 1988 and transferred to GHSS Nagri Bala and served for long years.



- 2. That in these long years of service no complaint was served upon the appellant from his higher officers and performed his duty well.
  - 3. That on 23/08/2013, appellant attended the funeral of his aunt because of which the appellant sent an application to school and also called on phone to the in charge of the school on which a casual leave was marked in the staff attendance register against the appellant's name.

    (copy of staff attendance register annexed as Annexure A).
  - 4. That on the said date EDO (M) Abbottabad visited different schools including the appellant's school where EDO Abbotabad malafidely transferred appellant to very far flung area.
  - 5. Being aggrieved from the impugned order one of our colleague lodged complaint against the impugned transfer order to Commissioner Hazara Division, upon which additional deputy commissioner Abbotabad conducted inquiry and directed EDO Abbottabad to cancel the impugned order of transfer, upon which EDO (Male) Abbotabad cancelled these transfer orders and in the same order EDO (M) Abbotaabad ordered inquiry committee to probe into the matter.
    - (Copy of Cancellation order is attached as Anex B).
  - 6. That the respondents with malafide and on the basis of political influence ,without any hearing of the appellant against the law and policy ,issued transfer of the appellant vide impugned order No.8650-53 dated 11/11/2013 (Copy of order dated 11/11/2013 is attached as Annex C).
  - 7. That the appellant filed departmental appeal against the mentioned order dated 11/11/2013 of respondent No.3 before respondent no.2.
  - 8. That respondent no.3 straight forward rejected the appeal of the appellant without any hearing of the appellant and against the merit vide order No.2942 dated 25/11/2013. (Copy of the final order, which was passed on departmental appeal of the appellant is annexed as Annexure D)

## **GROUNDS:**

- A. That the appellant served education department for long 38 years and can not be transferred on the reason that he was on leave.
- B. That the impugned order was passed against the policy, merit, law and natural justice, therefore under the law is not sustainable and liable to be set aside.
- C. That the appellant according to the policy was entitled to retain the service at GHSS Nagri Bala, District Abbottabad.
- D. That the impugned order was passed with collusion, malafide and based on political influence, therefore liable to be set aside.

It is, therefore, respectfully prayed that on acceptance of instant appeal, both the impugned order may graciously be set aside and appellant may be allowed to perform his service at GHSS Nagri Bala, Abbottabad.

Dated 26/11/2013

Through

Mohhamad Saeed Zahir

&

Yaseen Afridi

Advocates, Peshawar

#### AFFIDAVIT/ Verification

Verified on oath that the contents of the instant application are true and correct to the best of my knowledge and belief and nothing has been concealed from this hon`ble court.

Dated: 26/11/2013



## BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHWAR.

/2013

	Service Appeal No. 72015.	
	Mohhammad Yousaf (SCT) GHSS Nagri Bala Tehsil & District	
	AbbotabadAppellant.	
	Versus	
1.	Secretary Elementary & Secondary Education, Khyber Pakhtunkhwa	
	PeshawarRespondents	
	SERVICE APPEAL	
	<b>APPLICATION</b> FOR GRANT OF STATUS- QUO AGAINST	F THE
	IMPUGNED ORDER DATED 11/11/2011, TILL FINAL DISPO	OSAL
	OF INSTANT APPEALL.	

#### RESPECTFULLY SHEWETH:

- 1. That the appellant filed titled appeal before this Hon'ble Tribnal and application of the appellant may be treated as an integral part of the main appeal.
- 2. That the appellant was transferred from GHSS Nagri Bala, district Abbottabad to GHS Chamahati after long 38 years of his service at this school thus has a good prima facie case to be retired at this school as the appellant has only one year more service and appellant hope for acceptance of instant appeal.
- 3. That balance of convenience is also in favour of appellant/petitioner.
- 4. That in case if status- quo order is not passed then the appellant will suffer irreparable loss and the purpose of filing appeal would become infructouous.

It is, therefore humbly prayed that on acceptance of instant application, status- quo order may kindly be granted till final disposal of main appeal.

(F)

Dated 26/11/2013

Through

(Appellant)

Mohhamad Saeed Zahir

&

Yaseen Afridi

Advocates, Peshawar

## AFFIDAVIT:

I, Mohammad Yousaf (SCT) GHSS Nagri Bala, Tehsil & District Abbotabad ,do hereby solemnly affirm on oath that the contents of the instant application are true and correct to the best of my knowledge and belief and nothing has been concealed from this hon'ble court.

Dated: 26/11/2013

Defone

# Annex A

6

## STAFF'S ATTENDANCE REGISTER

,1

	NO	•				VO			· 	NO.		<del>-</del>	_	Λ.	vo &	) <del></del>
1	Vame.	M.	RA	=/QL	)E		You	SUF			TAVE	<u>D</u> ,		i Inc	R KH	ATA
	Design	atio	n: ج.	7		G	CT.				Sr. C'7	- <u>, , , , , , , , , , , , , , , , , , ,</u>		1	-T	
	Date	Arr.	Sig.	Dep.	Sig.	Arr.	Sig.	Dep.	Sig.	Arr.	Sig.	Dep.	Sig.	Arr.	Sig.	Dep.
` [	1	1/30	Coop	1/-	Chop.	7/30	20%-	11-	1.2	7.430	2004	1/-	32	7/2	Bearl	7-
	2 3	Ι.	16 12	1 .	Charle	7/20	And-	1/	15/2	ы .	عالية	l -	A.W.K		SONK	11/0
	3	1/.00	Carje	5 1/-	Wilj &		16%	1/-	147.	11	الحارثان					1/0
	<u></u>	//	756	<b>&gt;</b> <			sual		re			) }			<u> </u>	
	б	1/11	17/0	//		يم_	1			Ca	Sual				MAR. R	1/00
-	7	16.	(C)	1'4	10	1/20	10	1/	117-	7/20	_£,±0,=	1/4	24. A)	7/30		1/40
 	8			7	פוחש					7.7.254	التخيان تكادا	<del></del>	Park TP.	17:0	A	7
	9.	-	<u> </u>	.	1.1			11	ين غر	لوارا						
	10 11,			<del> </del>	<b>/</b>		/_			<b>X</b>	/		ļ			
"		///	1/ (		~		0.1	ļ. <u>.                                   </u>	110	X	<u></u>		-	ļ	ļ_,	J
	13			-//=	Ens.	ن فياا	13-	1/-	10	11	duco	,	a.ch	7/30		1 / 5
	14	7/38	1230 1			7/31	111-	17.7	12.	7/20					bos R bos R	
	15	1' .	12/2	1/-	(C/S)	1 7	157-	1/-	127		Jan. C.	12/-	Den (P)		Son K	1/10
	16	1'.	1/20	1	1 1 1 1	7/32	21	11/-	217-					1 022	ull/1	
ļ	17	11	ZIN	71	Cins	7/30	19-	1	Just						Zon K	
	18			.l	/_		 	ļ <u>.</u>	ļ	ļ <u>.</u>						
	19 20						ردل	$\geq$	CAN-t	CGZ	اييار	<u>2</u>	چريب	7/30	SWA R	1/02
	21 21	17 .	1 50 1	(I	anje			<u> </u>	177	II '.	Jan D		Jan X		KMR	1/00
	 22	7/30	10.19	ባ ፡ /	(A),			1/2	7/2	7/30		14	. کا رورت	7/3c	77 73	,
	23	100	Such	[ - <u>[</u> ].	1000	. 4	sant.	Lin		III. 2142 -	1211S	( <del></del>	Str. S	7/20	1200 K	1/10
	24		Up-	11/	1/2		1231		719	11	اکورت میکارد	,	J. 1000.C		SOVA K	
>	25	يرر	7/	/	מן זינאַ:א		<b>(۲</b> بسر)	'		.1.130	ري ۲۰۰۰ کې	11.5.	بكوسون	1/25	EX.	1/60
化	26	0/16	SOX	U	- CON	7/20	27	11-	Shij	7/30	الكاريمة	 		7/	Twa D	7/
1	27	1/30		77.	MI	يې	wal	ي ا	246	7/30	12.15	11.:: 11-3	ىت رويانى كىرىنى	2/3.0	HYDOLK	1/20
10040	28	1/30	Cilly	1/-	J'al		ز؛			2/3-	\$140S	11.~	5	2/3.4.	Lan P	//A
	29	/?/ <i>\</i>	Rist	11/	Contr	). <u></u>	4	<u> </u>		フタン	7	. 11-	3.0	7/30	LIDO C	1/00
	30	12:0	CM.	11-	(Yn)4	7/30	14	///:	181	7/30	رت ی م	17:	143	1/30	ma 6	11/30
L	<u>31 -</u>	1/30	City.	11.		[ <i>i/i⊥</i> ]	131	11/:	M	7 /200	July .	11/90	Jayeu		اب	<u>عصرون</u> ا
۳		, 		ر رس <i>ت ج</i> نز،		TAI	EME	NT	OF L.	EAV	ES TA	KEL	V	· — · • • • • • • • • • • • • • • • • •		
_	<u></u>	Sich	Calual	Prt.	Total	Sich	Casual	Pri.	20tal	Sich	Casual	Pri.	Total	Sich	Casual	Pri.
- )	This louth	{	(3	75°	<u>. S.</u>		<u>. 6:2.</u>	izii.	11-7		( 3	c-3	(°3)			- 3
Pr	evious							\ \ \ \ \	-111		اسلب، ك		7		<u> </u>	<u>50</u>
7	otal				M (		-/-	V,								<del></del>
١		l Dated	l		7	<u> </u>		-/-	L					<u> </u>	pártme	

<u>OFFICE OF THE DISTRICT EBUCATION OF FICER (MALE) ABBOTTABAD</u> HELD IN ABEYANCE/DENOVO INQUIRY. In pursuance to the report of SDEO (M) Abbottabad dated 23.8.2013, transfer order of six staff members stailding at S.No.1,2,3,5.6&7 were issued on disciplinary ground through Endst; No. 7389-91 dated 10.9,2013 and subsequently corrigendum issued under Endst: No. 7439-44 dated 14.9.2013. One Mr. Muhammad Nascem SPLT under transfer lodged a complaint before the Commissioner Hazara Division regarding impunged transfer order and the Additional Deputy Commissioner Abbottabad conducted inquiry. In result of said inquiry. Deputy Commissioner Abbottabad directed the undersigned to cancel the said transfer order of complainant vide his office Memo: No. 5813-14/PS/2/Mise dated 27.9.2013. In addition to the above, Director Elementary & Secondary Education Klyber Pakhtunkhwa Peshawar forwarded the request of aggrieved teachers vide Memo: No.

2610/F.No.153/A-15/CT/I)M/A.Abad dated 11.10.2013 regarding cancellation of said transfer order in the light of Parliament House Islamabad letter No. F-1-1/2013/DS/NA dated 18.9.2013.

It will be highly discriminatory and injustice to extend relief to the specific Recommendee of the higher authority as the Constitution of Islamic Republic of Pakistan 1973 enshrines equal opportunity of service benefits. Hence, the transfer order in respect of all those Civil Servants who were transferred in the result of inquiry dated 23.8.2013 issued vide this office Endst: No. 7389-91 dated 10.9.2013 is hereby kept held in abeyance with the direction to aggrieved civil servants to perform their duties as usual.

Moreover, denovo inquiry is hereby ordered, Inquiry Committee consisting of the following Senior Officers is constituted to probe the facts and submit report within fortnight for final decision.

1. Mr. Muhammall Javed, Principal; (13-20) GCMSS Abbottabad (Chairman)

Mr. Safahuddin Shah, Principal, (B-19) GHS No.4 Abbottabad (Member)

DISTRICT EDUCATION ABBOTTABAD

Endst:No.8821-3"

Dated 21 /10 /2013

Copy forwarded to:

Commissioner, Hazara Division, Abbottabad.

Deputy Commissioner, Hazara Division, Abbottabad.

Mr. Muhammad Javed, Principal, GCMSS Abbottabad along with copies of all relevant documents.

Mr. Salahuddin Shah Principal, GHS No.4 Abbottabad.

- District Accounts Officer, Abbottabad.
- 6. PS to Secretary to Government of Khyber Pakhtunkhwa, E&SED Peshawar.
- PA to Director, E&SE, Khyber Pakhlunkhwa, Peshawar.
- Principal, GHS\$ Nagri Bala, Abbottabad.
- All the teachers concerned.

DISTRICT EDUCATION ABBOTTABAD

## OFFICE OF THE DISTRICT EDUCATION

#### ADJUSTMENT

In pursuance to the recommendation/report of Denovo Inquiry received vide No.226 dated 07.11.2013, the following adjustment/transfer on disciplinary grounds are hereby ordered with immediate effect.

	Name/designation/school	To	Remarks S No. 2 on
S.N.	Name/designation/outsaf	GHS Nathia Gali	Against 5.140
1.	Mr.N. hammad Yousaf,		disciplinary grounds.
<u>.</u>	SCT, GHSS Nagri Bala	GHSS Nagri Bala	Vice S.No.1
2.	Mr.Muhammad Ramzan,	OUSS Magn Date	
\\ .	SCT, GHS Nathia Gali		Against vacant post on
3.	Mr.Attiqur Rehman,	GHS Ghambeer	disciplinary grounds
	SAT GHSS Nagri Bala		Against vacant post on
4.	Mr.Sajawal Khan,	GHS Chamahati	disciplinary grounds
1	SDM, GHSS Nagri Bala		
	Mr.Muhammad Nasim,	GHS Pattan Khurd	Against vacar post
5.	Mr.Munanmad Nasmi,		disciplinary L
1	SPET, GHSS Nagri Bala		

As the wife of S.No.01 is Cancer Patient and he is also issue 252, an such he is adjusted at nearer Station i.e. GHS Nathia Gali on humanitarian/compensatory Note: 1 grounds.

2. Charge report should be submitted to all concerne-

3. This office adjustment order issued under Endst; it 1.389-91 dated 10.09.2013 be treated as cancelled.

### DISTRICT EDUCATION OFFICER (M) ABBOTTABAD

	5
Endst:No. 8650 - 5	_/N.Bala

Dated\_\_\_\_\/\ / \\ /2013

## Copy forwarded for information to:

- Gali, Berote, GHS Nathia Bala, Nagri GHSS Principal, Chamahatti, Bagan, Ghambeer and Pattan Khurd.
- District Accounts Officer, Abbottabad.
- PS to Minister E&SED Khyber Pakhtunkhwa, Peshawar. 2.
- PS to Secretary, Govt: of Khyber Pakhturkhwa, E&SED Peshawar. 3. 4.
- PA to Director E&SE Khyber Pakhtunkh wa, Peshawar. 5.
- PS to Commissioner, Hazara Division, Apbottabad.
- PA to Deputy Commissioner, Hazara Division, Abbottaba 6. 7.
- Assistant programmer, EMIS, Local Office. 8.
- Teachers concerned 9.

DY; DISTRICT EDU/OFFICER (M) ABBOTYÁBAD

المرام والرام المرام ال سنون - ایمل سنوی شادل - de la Anre e1 مؤرار آزار شی نے میان کرلوسف کے کیسی الرقل میں م عامل المراسط المراسط المراسل سرل کر دینے گئے۔۔ ن کردی هے۔ ایکی اور وراز کرول بی سران کرول بی سران کرو (Disciplinary grand ) biglistification of the Disciplinary grand ) (85° Holing) /// 1/ 2013 10,00 / 2 00 // 20 Mly in White كوسوى كا طامات مارى فرمايتن Lordes 2 - The jevel (ryand - Muhily Color in big somobble -3

Adestal M.

Annex D

Directorate of Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar. No. 2 (74) /F.No. 194/A-15/CT/DM/A/Abad/ Posting/Transfers.

Dated Peshawar the 25/11/2013.

To

Mr. Muhammad Yousaf, S.CT, Govt: Higher Secondary school, Nagri Bala District Abbottabad.

- Mr. Sajawal Khan,
   S.DM, Govt: Higher Secondary School,
   Nagri Bala, District Abbottabad.
- 3. Mr. Atiq ur Rehman, S.AT, Govt: Higher Secondary School, Nagri Bala, District Abbottabad.

## SUBJECT:- Appeal for cancellation of transfer order.

Memo:

I am directed to refer to your appeal dated 23.11.2013 on the subject noted above and to inform you that under Section 10 of the Civil Servant act the civil servant is required to serve any where in District. So your appeal has been rejected.

Deputy Director (Establishment) • E&SE, Khyber Pakhtunkhwa Peshawar.

Are Il Coerd

باعث تحريراً نكه

مقدمه مندرج عنوان بالاميس اين طرف سے واسطے پيروي وجواب دہي وكل كاروائي متعلقه

آن مقام م کیلے کی مسلسل کی از المال کا کا ال احتیار ہوگار نیز را کی مقرر کر کے اقرار کی آجا تا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا گال احتیار ہوگار نیز را وکیل صاحب کوراضی نامه کرنے وتقر ر ثالث و فیصله پر حلف دیئے جواب دہی اورا قبال دعوی اور بصورت ڈ گری کرنے اجراءاوروصولی چیک وروپیارعرضی دعوی اور درخواست ہرسم کی تصدیق زرایں پردستخط کرانے کا اختیار ہوگا۔ نیزصورت عدم پیروی یاڈگری یکطرفہ یا بیل کی برامدگی اورمنسوخی نیز دائرکرنے اپیل نگرانی ونظر ثانی و پیروی کرنے کا مختار ہوگا۔ازبصورت ضرورت مقدمہ ندکور کے کل یا جزوی کاروائی کے واسطے اوروکیل یا مخارقانونی کوایے ہمراہ یا اپنے بجائے

تقرر کا ختیار ہوگا۔اورصاحب مقرر شدہ کوبھی وہی جملہ مذکورہ بااختیارات حاصل ہوں گے اوراس کاساختہ پر داختہ منظور وقبول ہوگا دوران مقدمہ میں جوخرچہ ہرجانہ التوائے مقدمہ کے سبب سے وہوگا۔کوئی تاریخ پیشی مقام دورہ پر ہو یا حدسے باہر ہوتو وکیل صاحب پابند ہول گے۔کہ پیروی مذکورکریں ۔لہذاو کالت نامہ کھھدیا کہ سندرہے۔

26.

Marit V

عدنان سئيشنري مارت چوک مشتگری پیثا در خی نون 2220193 Mob: 0345-9223239