

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL # 1444/2023

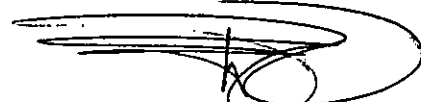
Mr. Suleman Khan, Assistant Programmer (BPS-17).....Appellant.

VERSUS

Govt: of Khyber Pakhtunkhwa & Others.....Respondents.

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Deponent

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BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR

Service Appeal # 1444/2023

Mr. Suleman Khan (BPS-17).....Appellant

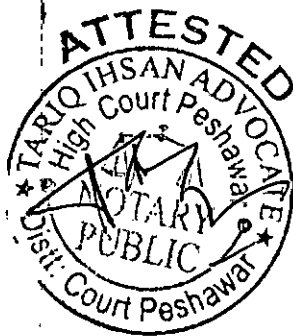
VERSUS

Govt. of Khyber Pakhtunkhwa & others..... Respondents

AFFIDAVIT

I, **Mr. Amjad Ali**, Section Officer (Litigation-II) Elementary & Secondary Education, Department do hereby solemnly affirm and declare that the contents of the accompanying para-wise comments, submitted by the respondents, are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

It is further, stated on oath that in this appeal the answering Respondents have neither been placed ex-parte nor has their defense been struck off.



DEPONENT

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Mr. Amjad Ali
Section Officer (Lit-II)
E&SE Department Peshawar

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GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Block "A" Civil Secretariat, Peshawar

Phone No. 091-9211128

AUTHORITY LETTER

It is certified that **Mr. Fahim Ullah, Legal Representative (Litigation-II)** Elementary & Secondary Education Department, Govt: of Khyber Pakhtunkhwa, Peshawar is hereby authorized to submit parawise comments on behalf of Secretary Elementary & Secondary Education Department Peshawar in Service Appeal No. 1444/2023 Case Titled **Mr. Suleman Khan, Assistant Programmer (BPS 17)** vs Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department Khyber Pakhtunkhwa, Peshawar.

A handwritten signature in black ink, appearing to be 'Amjad Ali', written over a horizontal line.

Mr. Amjad Ali
Section Officer (Lit-II)
E&SE Department Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

In Service Appeal No. 1444/2023

Mr. Suleman Khan.....Appellant Khyber Pakhtunkhwa Service Tribunal

VERSUS

Diary No. 7532

Dated 14/09/23

Chief Secretary to Govt of KPK Peshawar..... Respondents.

PARAWISE COMMENTS ON BEHALF OF THE RESPONDENTS NO. 01 & 02.

Respectfully Sheweth,

Preliminary Objections:

1. That the appellant has got no cause of action has any locus standi to file the present appeal.
2. The appellant has not approached to this Honorable Tribunal with clean hands.
3. The appellant has estopped by his own conduct to file the present appeal.
4. The appellant has concealed material facts from this Honorable Tribunal.
5. The appellant is just wasting the precious time of this Honorable Tribunal.
6. The appeal of appellant is hopelessly time barred.
7. The appeal is liable to be dismissed summarily with cost.
8. The present appeal is liable to be dismissed for non-joinder and mis-joinder of necessary parties.
9. The Respondents have acted u/s 10 of the Civil Servant Act, 1973 in the public interest.

FACTS

1. Pertains to record.
2. Pertains to record.
3. Correct, on completion of his normal tenure, he was transferred on 24-09-2021 to the office of District Education Officer (Male) Lakki Marwat.
4. Incorrect, the transfer of appellant were made on 24-02-2022 on his personal request on humanity ground with an excuse of illness of family member.
5. Incorrect, the transfer of appellant on dated 14-03-2023 is in accordance with law and best public interest, there is no violation of A-224 of Constitution of Pakistan. The respondents are empowered u/s 10 of Civil Servants Act, 1973 to place the services of appellant like all Civil Servants anywhere throughout the province in public interest.
6. The departmental appeal as well as the present appeal are baseless, false and having no force of law, hence liable to be dismissed.
7. Para-07 alongwith all the grounds of appeal are incorrect.

On Grounds:

- A. Para A of grounds is incorrect, hence denied the appellant has been transferred in best public interest.
- B. Incorrect, the notification on dated 14-02-2023 is in accordance with law and based of public interest.
- C. Incorrect, there is nothing against the Constitutional rights nor has any violation of Election rules.
- D. Incorrect, the notification on dated 14-03-2023 is based on public interest and being a Civil Servant the appellant is duty bound to serve the department in true spirits.
- E. Pertains to record.
- F. Pertains to record.
- G. Para-G is not permissible being non-maintainable appeal.

It is therefore, requested that the appeal in hands may kindly be dismissed with cost.



SECRETARY
Elementary & Secondary Education,
(Respondents No.01 & 02)

**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT**

Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone No. 991-973333, Email: epchoolinfo@gmail.com

(14)

"D"

Peshawar, Dated: 14th March, 2023

NOTIFICATION

NO.SO(SM)E&SED/5-17/2022/PT/G: The posting/transfer of the following Officers are hereby ordered with immediate effect, in the best public interest:-

S.No.	Name & Designation.	From	To	remarks
01	Kamal Ud Din SS Chemistry BS-17	GHSS Gumbat Kohat	GCHSS Kohat	AVP
02	Rashid Afzal Assistant Programmer BS-17	Dy: DEO (F) Upper Swat	GHSS Dehrai Alpuri	AVP
03	Salman Khan Assistant Programmer BS-17	DEO(F) Bannu	DEO (M) Karak	AVP
04	Khamdullah Jan Assistant Programmer BS-17	DEO (M) Karak	DEO (F) Lakki Marwat	AVP
05	Ghafar Ali Khan Assistant Programmer BS-17	DEO (F) Lakki Marwat	DEO (M) Bannu	AVP
06	Kiramt Ullah Saeed Assistant Programmer BS-17	DEO(M) Bannu	DEO (F) Bannu	AVP
07	Muhammad Zahid SS English BS-17	GHSS Masha Mansoor Lakki Marwat	GHSS No.3 Lakki Marwat	AVP
08	Kamran Shah SS P/S BS-17	GHSS Gumbat Kohat	GCHSS Kohat	AVP
09	Syed Ghani Shah SS Maths BS-17	GCHSS Kohat	GHSS Dhoda Kohat	Vice S.No.10
10	Shah Muhammad Binyamin SS Maths B- 17	GHSS Dhoda Kohat	GCHSS Kohat	Vice S.No.09
11	Yousaf Z...	Orakzal	GHSS Bhandi Khan Khujari Bannu	

14/3



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

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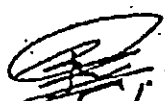
12	Inidad Ullah Supdt: BS-17	O/O DEO (F) Battagram	Assistant Director BS-17, Directorate of E&SE, Khyber Pakhtunkhwa	AVP
13	Muhammad Islam Supdt: BS-17	O/O DEO (M) Momand	O/O SDEO (M) Charsadda	AVP
14	Kifayat Ullah SS English BS-17	Working in OPS BS-18, GHSS Jehangiri Karak	SS English BS-17 GHSS Jehangiri Karak	AVP

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) Bannu.
4. District Accounts Officer Bannu.
5. Principal Concerned.
6. Director, EMIS E&SE Department.
7. PS to Minister for E&SE Department.
8. PS to Secretary E&SE Department.
9. PA to Deputy Secretary (Admn) E&SE Department.
10. Officers concerned.
11. Office order file.


14/03/23
(TAJ MUHAMMAD)
SECTION OFFICER (SCHOOLS MALE)

To

The Chief Secretary,
Khyber Pakhtunkhwa, Peshawar.

PSIC/S Khyber Pakhtun. Hwa
Diary No. 1346 (w/e)-8
Date: 27-03-2023

17

Subject: DEPARTMENTAL REPRESENTATION / APPEAL AGAINST THE IMPUGNED NOTIFICATION DATED 14-03-2023, WHEREBY THE APPELLANT HAS BEEN TRANSFERRED/ ADJUSTED FROM DISTRICT BANNU TO KARAK WITHOUT COMPLETING THE NORMAL TENURE.

Respected Sir,

Compendium of facts out of which be present representation / appeal arises as under.

FACTS:

1. That the appellant belongs to District Bannu and serving as Assistant Programmer BPS-17 in E&SE Department.
2. That the appellant was then transferred / adjusted from DEO Female Lakki Marwat to District Education Office Female Bannu at dated 24/02/2022 vide Endst No.4939-45/F.NO.60/A-23/MS/TRANSFER/BANNU, Dated Peshawar the 24/02/2022.
3. That the appellant has been again transferred from District Bannu to DEO Male Karak without completing my-normal tenure vide No.SO(SM)E&SE/5-17/2022/PT/G Dated Peshawar 14 March 2023.(Copy attached) copy attached.
4. That my wife is a PST Teacher at District Bannu at GGPS Khwajamad Mandan Bannu and as per spouse/wedlock policy husband wife will serve at same District.
5. That I am poor and it is very difficult for me to manage my family financially out of District.
6. That the impugned transferred / adjustment notification is against law, rules and natural justice on the grounds inter-alia as follow

GROUND:

- A. That the impugned transfer/ adjustment notification dated 14-03-2023 whereby appellant has been transferred vide serial No.03 of the impugned notification dated 14-03-2023 is illegal, without lawful authority, without jurisdiction, void ab-initio of no legal effect and ineffective upon the rights of the appellant, therefore liable to be set aside.

Section Officer
Education Department
Civil Secretariat
Peshawar
14/9/23

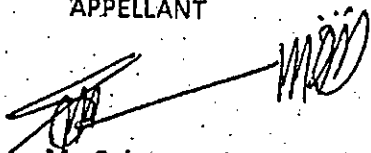
- (18)
- B. That the impugned notification 14-03-2023, is in sheer violation of Apex court reported judgment 2021 PLC (C.S) 519, which has barred the care taker government from posting/ transfer and only can runs the day to day affairs of the Government.
 - C. That the impugned notification dated 14-03-2023 where the appellant has been transfer from one place to another place without completing the normal tenure and violating the rules and regulations by respondent department clearly established the mala fide on behalf of the respondent department.
 - D. That the impugned Notification dated 14/03/2023 is issued in haste and without approval of Competent Authority on political pressure.

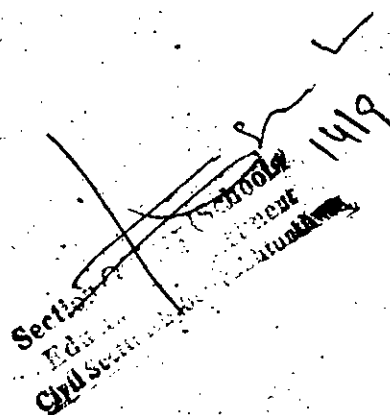
PRAYER:

It is therefore prayed that on acceptance of this representation / appeal the impugned notification dated 14-03-2023 may be declared as illegal, without lawful authority, without jurisdiction vide ab-intio and of no legal effect and the same may be laid to rest and the appellant may be retained at his own pervious station District Education Officer Female Bannu.

Date: 27.103/2023.

APPELLANT


Mr. Suleman Khan
Assist. Programmer BS-17
District Education Officer Female Bannu


Section Officer
Education
Civil Section
District Education Officer Female Bannu
1419