


# FORM OF ORDER SHEET

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

**Appeal No.** \_\_\_\_\_

**1858/2023**

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	14/09/2023	<p>The appeal of Mr. Ahmar Usman presented today by Mr. Shahid Qayyum Khattak Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on</p> <p>By the order of Chairman</p>  <p>REGISTRAR</p>

**BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 1858 /2023

Ahmar Usman..... Appellant

**VERSUS**

The Secretary Elementary & Secondary  
Education & others..... Respondents

..... Respondents

**I N D E X**

<b>S.No</b>	<b>Description of Documents</b>	<b>Annex</b>	<b>Pages</b>
1.	Appeal with affidavit		1-4
2.	Memo of stay application		5-6
3.	Addresses of the parties		7
4.	Copy of order dated 15/03/2023	<b>A</b>	8
5.	Copy of Impugned Order dated 05/09/2023	<b>B</b>	9
6.	Copy of application/ representation	<b>C</b>	10
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APPELLANT

Through

  
**Shahid Qayum Khattak**

Advocate

Supreme Court of Pakistan

Cell: 0333-9195776

Dated: 14/09/2023

**BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 1858 /2023

Ahmar Usman (CT, GHS Tarkha Koi) S/o Nasir Usman  
R/o Metakhel Tehsil & District Kharak . . . . . **Appellant**

**VERSUS**

1. The Secretary Elementary & Secondary Education Department, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Director Elementary & Secondary Education Department Khyber Pakhtunkhwa, Peshawar.
3. The District Education Officer ( Male), Karak

. . . . . **Respondents**

**APPEAL U/S 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDERS DATED: 05/09/2023, WHEREBY THE EARLIER ORDER OF TRANSFER OF APPELLANT DATED 15/03/2023 HAS BEEN ILLEGALLY WITHDRAWN AND AGAINST THE ORDER DATED 13/09/2023 WHEREBY THE DEPARTMENTAL APPEAL FILED BY THE APPELLANT HAS BEEN FILED.**

**Respectfully Submitted:**

The Appellant humbly submits as under;

1. That the appellant was performing his duty as CT in GHSS Chanda Khurram. That the services of the appellant has been transferred from GHSS Chanda Khurram to GHS Tarkha Koi against vacant post vide order endst: No. 1393-97 dated 15/03/2023. **(Copy of the order is attached as annexure "A")**
2. That as per order the appellant assumed his duty at GHS Tarkha Koi and was performing his duty with full zeal and enthusiasm, that all of the sudden the respondent No. 3, after the laps almost six month withdrawn the earlier order of transfer i.e 15/03/2023 vide endst No. 6615-20/ADEO Secy: dated 05/09/2023. **(Copy of order is attached as annexure "B")**
3. That the appellant filed application/ Appeal before the worthy respondent No. 2 against the illegal order of withdrawn/ transfer, but the same has not been considered and has been filed vide order dated 13/09/2023, hence feeling aggrieved appellant prefer instant appeal on the following amongst grounds;**(Copy of application/ appeal and order are attached as annexure "C" & "D")**

**Grounds:**


- A. That the impugned order is against the law facts, and circumstances of the case, hence not tenable in the eye of law and liable to be set aside.

- B. That the appellant fully explained his position/ defense in his application to the worthy respondent No. 2 but the material and defense of the appellant was totally overlooked by the authorities and has been filed vide order dated 13/09/2023.
- C. That appellant is a on medical treatment and he has already completed his tenure in the Chanda Khurram which is very far flung area from the residence of appellant, and being engaged in his treatment. He constantly requires domestic atmosphere and in these circumstances his withdrawal of transfer after a few month is totally illegal and against the rules.
- D. That the appellant has a clear service record and an obedient servant and had never refused the order of authorities but frequent transfers is totally illegal, against the rules and regulation and transfer policy and equally against the principal of natural justice.
- E. That respondents flatly violated the transfer and posting policy of the provisional government as appellant has only spent few month on his new place of posting, and withdrawal of the same tantamount to another transfer.
- F. Any other ground with leave of the court will be raised at the time of arguments before this Hon'ble Court.

**It is therefore,** most humbly prayed that on acceptance of this appeal the impugned order dated:


05/09/2023 and 13/09/2023 may please be set aside for smooth administration of justice and appellant may please be retained /posted at the same station where he is performing his duties.

**Any other** relief to which the appellant is entitled under the facts and circumstances of the case may also be granted to the appellant.



APPELLANT

Through



**Shahid Qayum Khattak**

Advocate

Supreme Court of Pakistan

Dated: 14/09/2023

**AFFIDAVIT**

I, Ahmar Usman S/o Nasir Usman R/o Metakhel Tehsil & District Kharak, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble tribunal.



**DEPONENT**

CNIC: 14202-8104498-9

CELL:0333-9142294

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**BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR**

CM No. \_\_\_\_\_/2023

In

Service Appeal No. \_\_\_\_\_/2023

Ahmar Usman..... Applicant/ Appellant

**VERSUS**

The Secretary Elementary & Secondary  
Education & others..... Respondents

**APPLICATION FOR GRANT OF  
INTERIM RELIEF FOR THE  
SUSPENSION OF IMPUGNED ORDER  
DATED: 05/09/2023**

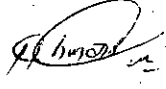
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**Respectfully Sheweth:**

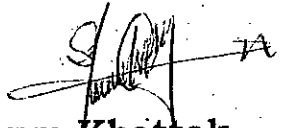
1. That the above mentioned Service Appeal is pending adjudication before this honorable court.
2. That the Appellant/ Applicant has a good prima facie case and balance of convenience also lies in favor of the Applicant/Appellant.
3. That if the respondent are restrained and the impugned order is not suspended, then the appellant will cause an irreparable loss and damages.
4. That the facts and grounds of the Service Appeal may kindly be read as integral part of this application.

⑥

It is, therefore, requested that on acceptance of this application, the interim relief as prayed for in heading of the application may kindly be granted to the respondents.

  
Appellant/ Applicant

Through

  
**Shahid Qayum Khattak**  
Advocate  
Supreme Court of Pakistan

Dated: 14/09/2023

**AFFIDAVIT**

I, Ahmar Usman S/o Nasir Usman R/o Metakhel Tehsil & District Kharak, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Application** is true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble tribunal.

  
**DEPONENT**

CNIC: 14202-8104498-9

CELL:0333-9142294



7

**BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. \_\_\_\_\_/2023

Ahmar Usman..... Appellant

**VERSUS**

The Secretary Elementary & Secondary  
Education & others..... Respondents

ADDRESSES OF THE PARTIES

ADDRESS OF APPELLANT

Ahmar Usman (CT, GHS Tarkha Koi) S/o Nasir Usman  
R/o Metakhel Tehsil & District Kharak

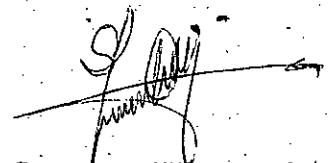
ADDRESS OF RESPONDENTS

1. The Secretary Elementary & Secondary Education Department, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. The Director Elementary & Secondary Education Department Khyber Pakhtunkhwa, Peshawar.
3. The District Education Officer ( Male), Karak



APPELLANT

Through



**Shahid Qayum Khattak**

Advocate

Supreme Court of Pakistan

Dated: 14/09/2023

(8)

Annex - "A"

**OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) KARAK**

**OFFICE ORDER**

Mr. Ahmar Usman, CT, GHSS Chanda Khurram is hereby transferred/adjusted at GHS Tarkha Koie against the vacant post in the best interest of public service with effect from the date of his taking over charge.

Note: No TA/DA Is allowed.

Charge Report should be submitted to all concerned.

*ed*  
**DISTRICT EDUCATION OFFICER  
(MALE) KARAK**

Endst: No. 1393 971

Dated Karak the 15/3 /2023.

Copy to the: -

1. Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar.
2. District Accounts Officer Karak.
3. Principal/Head Master Concerned.
4. District Monitoring Officer Karak.
5. EMIS Local Office.

*(21/03/2023)*  
**DISTRICT EDUCATION OFFICER  
(MALE) KARAK**

*AT*

(9) Annex - B<sup>3</sup>

**OFFICE OF THE DISTRICT EDUCATION OFFICER MALE KARAK**  
**OFFICE ORDER**

Transfer/Adjustment orders issued vide following Endorsement Numbers & Dates are hereby withdrawn in the best interest of Students due to shortage of teachers & demand of community with immediate effect.

S. No.	Endst. No. & Dated
1.	No. 4039-44 Dated 23/06/2023 in R/o Mr. Akhtar Ali Sultan, SST (G) transferred to GHS Jandri from GHSS Chanda Khurram
2.	No. 4039-44 Dated 23/06/2023 in R/o Mr. Muhammad Tahir, SST (B/C) transferred to GHS terkha koi from GHSS Chanda Khurram
3.	No. 4201-06 Dated 26/06/2023 in R/o Mr. Ahmar Usman, CT transferred to GHS terkha koi from GHSS Chanda Khurram
4.	No. 1393-97 Dated 15/03/2023 in R/o Mr. Zahoor Islam, Qari transferred to GHSS Tapi Kanda from GHSS Chanda Khurram
5.	No. 1271-77 Dated 10-03-2023 in R/o Mr. Shaukat Ullah, CT transferred to GHS Bangi Kala from GHSS Chanda Khurram

**Note:**

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

**DISTRICT EDUCATION OFFICER**  
**(MALE) KARAK**

Endst No: 6815-20/ADEO Secy:

Dated Karak the 5/9/2023

Copy forwarded to the.

1. District Accounts Officer Karak.
2. Principal/Head Master Concerned.
3. DMO EMA Karak.
4. EMIS Local Office.
5. Budget & Accounts Officer Local Office.

**DISTRICT EDUCATION OFFICER**  
**(MALE) KARAK**

*su*

31/8/23  
**ATTACHED**

(16)

Annex - 2

The Director,  
Elementary and Secondary Education,  
Khyber Pakhtunkhwa

Subject: Appeal Against Withdrawl Transfer Order Endst: No. 4201-06 Dated 26/06/23


Dear Sir,

With great reverence, it is stated that I am Ahmar Usman (certified Teacher in E&SE kpk) currently serving my duty at Govt High School Tarkhakoi. I was transferred from GHSS Chanda Khurram to GHS Tarkhakoi on medical basis on 15-03-2024. Now, District Education Officer Male karak withdrew my transfer back to GHSS Chanda Khurram on 31-08-2023. Sir, I fulfilled all recruitments which are needed for transfer (taken NOC from both the schools and submitted it on medical ground). I am a cardiac patient, repeatedly my heart's rate is high. The school from where I transferred, close to Nashpa Oil and Gas Field. There I feel suffocation because of poisonous air of oil and gas and many times my health being deteriorated. The doctor has also advised me to get rid of such poisonous air, it disturbs your health badly.

So sir, I appeal you to restore my duty at Govt High School Tarkhakoi.

All necessary medical documents are here with enclosed.

Thanking you  
Your's sincere

  
Ahmar Usman  
Designation: Certified Teacher  
Date: 02-09-2023



(11) Annex-D

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

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No. 5388 / File: 569 / RTI / P.F Ahmer Usman  
/Karak/2023


Dated Peshawar the: 13 / 09 / 2023

To

**Mr. Ahmer Usman,  
Village & Post Office Mitta Khel District Karak.  
Cell No. 0311-7879739**

**Subject: - PROVISION OF INFORMATION UNDER RTI ACT 2013.**

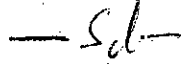
I am directed to refer to your application dated 06.09.2023 on the subject cited above and to state that your appeal for posting / transfer dated 05.09.2023 has been seen & filed by the Worthy Director, Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.

  
AD (RTI & Ombudsman)  
Directorate of E&SE KP

Endst: No. \_\_\_\_\_ /

Copy forwarded to the: -

1. P.A to Director E&SE KPK Peshawar.

  
AD (RTI & Ombudsman)  
Directorate of E&SE KP

# G.H.S TARKHA KOI (KARAK)

Ref: \_\_\_\_\_

Date: 02/09/2023

S.No:	Detail of Expenditures	Amount
-------	------------------------	--------

GHS Tarkha Koi total strength /  
 Students enrollment is 249/.

Mr, Ahmer Usman order is hereby  
 withdrawn dated 31/08/2023

The undersigned needs one CT Teacher  
 so that students precious time  
 may not be disturbed.

*(Signature)*

ATTSTED

*(Signature)*

Principal  
 G.H.S Tarkha Koi  
 Karak

\_\_\_\_\_  
 Sign of Principal

\_\_\_\_\_  
 Sign of Recipient

(13)

NO.SOR-II (E&AD) 1-1/85(VOL-II)  
Dated Peshawar the 15<sup>th</sup> February 2003.

**Subject: POSTING /TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT.**

I am directed to refer to the subject noted above and to say that in supersession of all policy instructions issued in this behalf, the competent authority has approved the following posting Transfer Policy.

- i. All the postings /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 posting /transfers of their choice and against the public interest.
- iii. All contract Government employees, appointed against specific posts, cannot be posted against anyother 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 hard areas the tenure shall be one year. The unattractive and hard areas will be notified by the Government.
- v. Months of March and July are fixed for posting /transfer of the officers /officials excluding the officers in B-19 and above in the Province. Posting /transfer in Education and Health Departments shall be made in March while the remaining Departments shall make posting /transfers in July. There shall be a ban on posting/transfers throughout the year excluding the aforesaid two months. However, there shall be no restriction in cases where posting /transfer of Government employees become inevitable in other months due to promotion /retirement /creation of new posts/return from long leave/involvement in

*Atmari*

ATMARI

disciplinary proceedings and adjustment of surplus staff for which specific relaxation shall be obtained from the Chief Minister:

- vi. While making postings transfers from settled areas to FATA and vice versa specific approval of the Governor, NWFP needs to be obtained.
- vii. Officers may be posted on executive /administrative posts in the Districts of their domicile except District Coordination Officers (D.C.Os) and 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 /resident is situated.
- viii. No postings /transfers of the officers/officials on detailment basis shall be made.
- ix. Regarding the posting of husband /wife, both in Provincial services, efforts where possible would be made to post such persons at one station and this will be subject to the public interest.
- x. All the posting /transferring authorities may facilitate the postings /transfers of the unmarried female Government Servants at the station of the residence of their parents.
- xi. Officers /officials except DCOs and 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 till the retirement.
- xii. In terms of Rules-17 (1) and (2) read Schedule-III of the Government of NWFP Rules of Business 1985, transfer of officers shown in column 1 of the following table shall be made by the authorities shown against.

*[Handwritten signature]*

*[Faint stamp]*



1

**Outside the Secretariat**

i. Officers of the all Pakistan Unified Group i.e DMG , PSP including Provincial Police Officers in BPS-18 and above.

ii. Other officers in BPS-17 and above to be posted against schedule posts, or posts normally held by the APUG, PCS (EG) and PCS (SG).

iii. Head of Attached Departments and other Officers in B-19 & above in all Departments.

**In the Secretariat:**

iv. Secretaries .

v. Other Officers of and above the rank of Section Officers:-

- a. Within the Same Department.
- b. Within the Secretariat from one Department to another.

vi. Officials upto the rank of Superintendent:-

- a. Within the same Department.
- b. To and from an Attached Department.

2

Chief Secretary in consultation with the Establishment Department and the Department concerned with the approval of the Chief Minister.

--do--

--do--

Chief Secretary with the approval of Chief Minister.

Secretary of the Department concerned .  
Chief Secretary /Secretary Establishment.

Secretary of the Department concerned.  
Secretary of the Department in consultation

*(Signature)*

16

c. Within the Secretariat from on  
Department to another.

with Head of Attached Department  
concerned: Secretary (Establishment)

1

SECRET

xiii. While considering postings /transfers proposals all the concerned authorities shall keep in mind the following:

a. To ensure the posting of proper persons on proper posts, the 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.

ix) Governments servants including District Govt. employees feeling aggrieved due to the orders of posting/transfers 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 posting/transfer or posting/transfer in violation of the provisions of this policy.

ii) Serious and grave personal (humanitarian) grounds.

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 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 Officer in BPS-17 and above posted in the District.	Provincial Government.

*(Signature)*

ATTC

18

4.	Official in BPS-16 and below.	Executive District Officer in consultation with District Coordination Officer."
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As per Rule 25(2) of the Rules above the District Coordination Department shall consult the Government if it is proposed to :

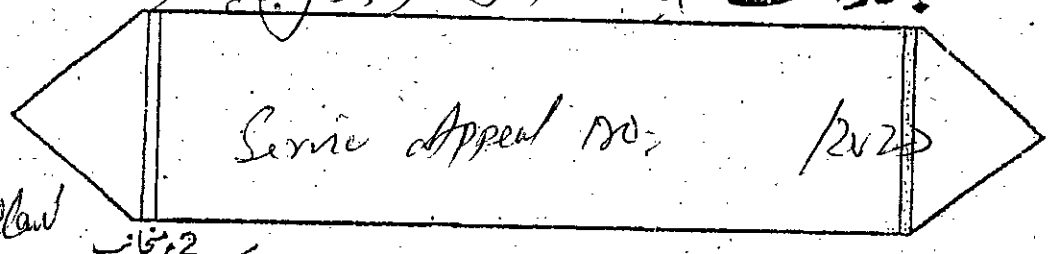
- a. transfer the holder of a tenure post before the completion of his tenure or extend the period of his tenure; and
- b. require an officer to hold charge of more than one post for a period exceeding two months.

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

*(Signature)*

ATTN: [illegible]

بعدالت صبا - سندھ سروس ٹریڈنگ کمپنی



Appellant

2، پنجاب

امیر عثمان بنام منڈری رہنمہ

مورخہ  
مقدمہ  
دعویٰ  
پریم

bc-10-7677

Mob No: 0333-9195778

باعث تحریر آنگہ

محمد سعید الرحمن  
امیر دلس

مقدمہ مندرجہ عنوان بالا میں اپنی نظر بند سے واسطے پیروی اور جواب دہی وکل کاروائی متعلقہ

آن مقام لکھنؤ کے لیے سٹارڈنٹس عدسہ سندھ روٹوں

مقررہ کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز

وکیل رہا صاحب کو راستی نامہ کر... نے و تقرر حالت فیصلہ بر حلف دیے جواب دہی اور اقبال دعویٰ اور

باعتدال ڈگری کرنے اجراء اور اصولی چیک اور و سپیڈ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برادگی اور منسوخی

نیز دائر کرنے اپیل گمرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور

کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ لیا اپنے بجائے تقرر کا اختیار

ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساملتہ

پرواخذہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائے التوائے مقدمہ کے سبب سے وہ ہوگا۔

کوئی تاریخی پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی

مذکورہ کریں۔ لہذا وکالت نامہ لکھد یا کہ سند ہے۔

الرتوم 14 ماہ ستمبر 2008

Accepted

واہ الع  
کے لیے پیشگی ہے

مہتمم کیتسا و

امیر عثمان ولد نام عثمان سندھ روٹوں