

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. 1635/2023

Muhammad Bilal..... Appellant

Versus

Govt; of KPK & others..... Respondents

SERVICE APPEAL

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Dated: /09/2023

Your Humble Respondent No.4



Muhammad Rasheed

Through counsel 

**Muhammad Abdullah Baloch
Advocate Supreme Court**

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**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. 1635/2023

7793
22/09/23

Muhammad Bilal..... Appellant

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SERVICE APPEAL

**Subject: WRITTEN REPLY ON BEHALF OF RESPONDENT#4
(Muhammad Rasheed).**

Respected Sir,

Respondent# 4, humbly submits the reply as follows.

PRELIMINARY OBJECTIONS:

1. That the appellant has got no cause of action and locus standi to file instant appeal.
2. That the appeal is not maintainable and incompetent in eye of law in present form.
3. The appeal filed by appellant is pre-mature and the appellant has concealed the material facts from this Honourable Tribunal.
4. That this Honourable Service Tribunal has no jurisdiction to entertain the instant appeal.
5. That the appeal is weak having no force, fabricated, fictitious, based on ill will, mala-fide and having no footing in eye of law.
6. That as per section 10 of Civil Servant act, 1973, every civil servant shall be liable to serve anywhere within or outside the province.

Muhammad Rasheed

7. That proceeding with the instant appeal would be futile exercise and just wastage of precious time of this Honourable Tribunal
8. That as stated in the objections supra, the appeal is bereft of cause of action and is liable for dismissal.
9. That the appeal is bad for mis-joinder and non-joinder of necessary parties.
10. That the appellant has not come to the court with clean hands and has suppressed all relevant facts. Transfers order dated 14.07.2023 is in accordance with law and was issued in public interest.
11. That the appellant demanding to cancel the transfer order is not his vested right. Transfer order of appellant is effective, legal and according to law.
12. That appellant had completed his tenure in non-teaching cadre.

REPLY ON FACTS

1. Para#1 is incorrect as drafted. The appellant has concealed a material fact that he had been serving in management cadre since 06/02/2020. Previously had served as ADEO Est: and after 11/06/2021 as ADEO (P&D).
2. Para#2 is incorrect, hence not admitted. That appellant was transferred from the post of ADEO (P&D) to the post of SST GMS, Wanda Umer Khan. The appellant had completed his normal Tenure on the post of ADEO (P&D). The appellant had worked as ADEO (P&D) more than 25 months. The Worthy Director E & SE KP, Peshawar had been pleased to transfer the appellant to the post of Headmaster GMS, Wanda Umer Khan. The act of the respondent's department was according to law, rules and policies of the government. The appellant is a civil Servant and as per section 10 of Civil servant Act, 1973; "Any civil Servant shall be liable to serve anywhere within or outside the province in any post under the federal Govt; or provincial Government". Furthermore the appellant has concealed the material fact that his entire length of service is approximately 6 years whereas the length of service of answering respondent is

Muhammad Ali

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33 years. Pertinent to mentioned here that in education department, for stop-gap-arrangement, teaching cadre officer who are experienced are normally posted/adjusted against management cadre post. The appellant having maximum 6 year service became the blue eyed of the department and had been serving against management cadre post since 06/02/2020.

3. Para#3 is incorrect, hence not admitted and relates to the record and is not related to answering respondent. The appellant had completed his normal tenure, therefore, appellant was rightly transferred vide notification dated 14/07/2023. The present answering respondent has submitted his arrival report on 17/07/2023 and appellant has relinquished his charge on 26/07/2023. Thus the instant appeal has become infructuous
4. This para needs verification. This para is not relates to answering respondent. Moreover performance appreciation letter No. 17086 dated 16/09/2023 is also annexed as **Annexure A.**
5. Para#5 is incorrect. Not admitted. The transfer order of the appellant was justified in the eye of law. The appellant is not an aggrieved person. The service appeal of the appellant is an exercise in futility. Further proceedings in this regard would bear no fruit. It is therefore requested to Honourable Service Tribunal to dismiss the service appeal of the appellant.

REPLY ON GROUNDS

- a. Para is incorrect, hence, not admitted. The appellant's transfer Notification dated 14/07/2023 was issued according to law and in public interest. The appellant cannot claim his transfer/posting as of his right. Most particularly when he has already passed his tenure. No discrimination had been made with the present appellant. Notification dated 14/07/2023 is accordance with law and government policies.
- b. Para B is incorrect, hence, not admitted, Strongly denied. Detailed reply has been given in above pare, may kindly be reiterated. The appellant was transferred back to his teaching cadre against the post of SST/HM GMS, Wand Umer Khan, where

M. S. Khan
14/07/2023

(4)

he originally belongs. The appellant cannot claim retention of his post as of his right where he was merely adjusted on stop-gap-arrangement.

- c. Incorrect, not admitted. Strongly denied. Transfer/posting order was issued in public interest. The appellant had exhausted his tenure as ADEO (non-teaching cadre).
- d. Para is incorrect as drafted. Hence, denied. The appellant only possesses maximum 6 years length of service, whereas the answering respondent has been serving the department since last 33 years. The appellant was transferred to post of SST, the transfer of an officer is not discrimination with him. Therefore, no discrimination had been made with the present appellant. Transfer is the part of job, therefore, appellant should not have any objection on his transfer such like he was transferred to the post of ADEO (P&D) and he did not have any objection. Hence the claim of the appellant is against the law and did not sustainable in the eye of law.
- e. Incorrect, hence denied. The appellant cannot claim his transfer/posting as of right as per section 10 of civil servant act, 1973.
- f. Incorrect, hence denied. Transfer/posting notification was issued in accordance with law and in public interest, by the competent authority after fulfilling all legal and codal formalities. The appellant has no valid cause to challenge the said notification.
- g. Incorrect, not admitted. The appellant originally belongs to teaching cadre and since 06/02/2020 has been serving on non-teaching cadre on the basis of stop-gap-arrangement. However, he had exhausted more than 7 months 24 days from his normal tenure.
- h. That counsel for the answering respondent may kindly be allowed to raise additional grounds at the time of arguments.

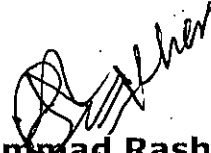
Classmate Plus

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In wake of submissions made above, this Honourable Tribunal is humbly requested that the service appeal of the appellant, being devoid of merits, may please be dismissed with costs.


Date: /09/2023

Your Humble Respondent No. 4



Muhammad Rasheed

Through counsel



Muhammad Abdullah Baloch

Advocate Supreme Court

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TRIBUNAL PESHAWAR**

Service Appeal No. 1635 /2023

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VERIFICATION

Verified this 22nd day of September, 2023 that the contents of this written reply are true and correct and that nothing has been concealed from this Honourble Court.


Respondent No.4

AFFIDAVIT

I, **Muhammad Rasheed**, the respondent#4, do hereby solemnly affirm & declare on oath that the contents of this written reply are true & correct to the best of my knowledge and belief, nothing has been concealed from this Honourable Court and contents of the service appeal and the affidavit thereon are false.


Deponent

22/9/23



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Annexure - A



**OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) DERA ISMAIL KHAN**

Tell: 0966-9280131

E-Mail: emisdik@gmail.com

No. 17086/

Dated DIKhan the 16 / 07 / 2023

To

Muhammad Rasheed Khor
ADEO (P&D) Male
D.I.Khan.

Subject: PERFORMANCE APPRECIATION LETTER.

Memo:

I am writing this letter to extend my appreciation forwards you for your outstanding performance as ADEO (Planning & Development) at the office of the undersigned since 14-07-2023 to tili date.

I truly appreciate your dedication and enthusiasm in achieving all the tasks assigned to the said post. Specially, I want to recognize your outstanding work for preparation of PC-1s and all the ADP schemes.

I wish and request the high-ups that you will continue working as ADEO (P&D) Male D.I.Khan for the betterment of this office.

After call to be true
Co PT
[Signature]

[Signature]
District Education Officer
(Male) Dera Ismail Khan

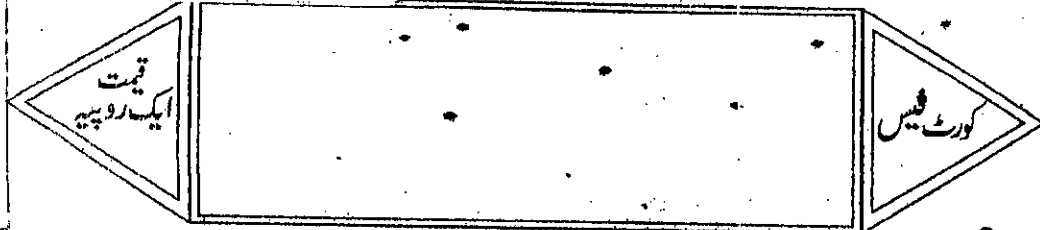


MUHAMMAD ABDULLAH
Advocate Supreme Court of Pakistan
12101-0988149-7

LIFE MEMBER ABID SHAHID ZUBERI
President

MUQTEDIN AMIN SHABBI
Secretary

وکالت نامہ



Before the worthy KP Service Tribunal
Respt: # 4 (M. Rasheed) D.T. Khan

بنام
Service Appeal
NO. 1635/2023
دعویٰ یا جرم
تفصیل دعویٰ یا جرم
باعث تحریر آنکہ

مقدمہ مندرجہ بالا بعنوان میں اپنی طرف واسطے بیرونی وجوہات سے پیشی یا تصفیہ مقدمہ بمقام
Muhammad Abdullah Baloch ASE

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے۔ کہ میں ہر پیشی پر خود بذریعہ اختیار خاص روز در عدالت حاضر ہوتا رہوں گا۔ اور ہر وقت پکارنے والے مقدمہ وکیل صاحب
موصوف کو اطلاع دیکر حاضر عدالت کروں گا۔ اگر پیشی پر مظہر حاضر نہ ہو اور مقدمہ میری غیر حاضری کی وجہ سے کسی طور پر میرے برخلاف ہو گیا۔ تو صاحب موصوف
اسکے کسی طرح ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام بکھری کے علاوہ کسی جگہ یا بکھری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل بیرونی کرنے کے
ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام بکھری کے علاوہ کسی جگہ یا بکھری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل بیرونی کرنے کے ذمہ دار نہ
ہوں گے۔ اور مقدمہ صدر بکھری کے علاوہ درج ذیل سماعت ہونے یا بروز تعطیل یا بکھری کے اوقات کے آگے پیچھے پیش ہونے پر مظہر کو کوئی نقصان پہنچے تو اس کے ذمہ
دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا ضمانت دہا نہیں کرنے کے بھی موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پروڈاکٹ صاحب موصوف مل کر وہ
ذات خود منظور و قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ یا جواب دعویٰ یا درخواست اجراء کے ذمہ دار نظر ثانی اعلیٰ گرائی اور ہر قسم درخواست پر دستخط و تصدیق کرنے کا
بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کرنے اور ہر قسم کارروائی وصول کرنے اور رسید دینے اور داخل کرنے اور ہر قسم کے بیان دینے اور اس پر پیشی یا راضی نامہ و فیصلے پر
حلف کرنے و اقبال دعویٰ کا بھی اختیار ہوگا۔ اور بصورت مقرر ہونے تاریخ پیشی مقدمہ مذکورہ بیرون از بکھری صدر بیرونی مقدمہ مذکورہ نظر ثانی و اعلیٰ گرائی و برآمدگی
مقدمہ یا مشورتی ڈگری یا طرف یا درخواست ہم انتہائی یا قرتی یا گرفتاری مل اذ فیصلہ اجراء کے ذمہ دار بھی صاحب موصوف کو بشرط ادا پیشی مقدمہ مذکورہ بیرونی کا اختیار ہوگا
اور تمام ساختہ پروڈاکٹ صاحب موصوف مل کر وہ ذات خود منظور و قبول ہوگا۔ اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکورہ یا اسکے کسی جزو
کی کارروائی یا بصورت درخواست نظر ثانی اعلیٰ یا گرائی یا دیگر معاملہ مقدمہ مذکورہ کسی دوسرے وکیل یا ایئر ٹر کو اپنے بجائے یا اپنے ہمراہ مقرر کریں۔ اور اپنے مشیر قانون کو
بھی ہر امر میں وہی اور ویسے اختیارات حاصل ہوں گے، جیسے صاحب موصوف کو حاصل ہیں، اور دوران مقدمہ میں جو کچھ ہر چنانہ الطواغ پڑھا، وہ صاحب
موصوف کا حق ہوگا۔ مگر صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی بیرونی نہ کریں اور اسکی
صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

Sept: 21 2023
بعد اذکالت نامہ کھلے یا ہے۔ تاکہ پتہ ہے

مضمون وکالت نامہ سن لیا ہے۔ اور اچھی طرح سمجھ لیا ہے اور منظور
العبد العبد العبد

03146932557
D.T. Khan

Respt: 4
Muhammad Rasheed
D.T. Khan