


# FORM OF ORDER SHEET

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

**Appeal No.** 1964/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	28/09/2023	The appeal of Mst. Shahi Gulfam presented today by Mr. Jamal-ud-Din Khattak Advocate. It is fixed for preliminary hearing before touring Single Bench at Swat on
		By the order of Chairmen
		 REGISTRAR

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL**

**AT PESHAWAR.**

Service Appeal No. 1964 /2023

Mst: Shahi Gulfam W/O Nasrullah Khan R/O Chouga, Tehsil  
Puran District Shangla.....(Appellant)

**V E R S U S**

Secretary to Government Khyber Pakhtunkhwa, Elementary  
and Secondary Education, Peshawar and  
others.....(Respondents)

**I N D E X**

S.No.	Description of Documents	Annex	Pages
1.	Appeal		1-7
2.	Stay Application		9-10
3.	Affidavit		11
4.	Addresses of the Parties		12
5.	Copy of the CNIC.	A	13-14
6.	Copy of the order.	B	15
7.	Copy of the impugned order dated: 3-3-2023.	C	16
8.	Copy of the impugned notification/order dated 30-03-2023	D	17
9.	Copy of appeal/representation dated 3-04-2023	E	18
10.	Copy of the Order/judgement of the Honorable Peshawar High Court dated 26-04-2023		19-26
11.	Copy of the departmental appeal/representation to the Director Elementary and Secondary Education		27
12.	Wakalat Nama		28

Appellant  
Through

Jamal Ud Din Khattak

Dated 28-9-2023

Advocates High Court.

(2)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL**

**AT PESHAWAR.**

Service Appeal No. 1964/2023

Mst: Shahi Gulfam W/O Nasrullah Khan R/O Chouga, Tehsil  
Puran District Shangla.....(Appellant)

**V E R S U S**

1. Secretary to Government Khyber Pakhtunkhwa, Elementary and Secondary Education, Civil Secretariate, Peshawar
2. Director Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. Deputy Director Establishment, Elementary and Secondary Education (F), Khyber Pakhtunkhwa, Peshawar.
4. District Education Officer (Female), Shangla
5. Irfanullah (TC) BS-16 presently posted as SST (G) GMS Balu Puran District Shangla.....(Respondents)

**APPEAL U/S 4 OF THE KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL, 1974,  
AGAINST THE IMPUGNED WITHDRAWAL AND  
TRANSFER ORDERS DATED 03-03-2023 AND  
30-03-2023 PASSED BY RESPONDENTS NO. 1  
AND 2, WHEREBY THEY FIRSTLY WITHDRAW  
THE POSTING/TRANSFER ORDER OF  
APPELLANT AND IN SECOND IMPUGNED  
SUBSEQUENT ORDER -THEY HAVE  
TRANSFERRED/POSTED RESPONDENT NO.5  
AS SDEO (FEMALE) ON THE POST OF  
APPELLANT.**

②

**Respectfully Sheweth:**

The facts giving rise/leading to the filling of instant appeal are as follows:

1. That the appellant belongs to Chouga Tehsil Puran, District Shangla. (Copy of the CNIC is attached as annexure "A").
2. That the appellant is having long and unblemished service record in the "Education Department" as was posted as SST-G, GGHS Puran Shangla.
3. That the appellant was transferred from the said post and was posted as Sub Divisional Education Officer (Female) Circle Puran Shangla against a leave vacancy vide the order No. 7845-49/A-17/Transfer/Shangla dated: 16-01-2023 duly issued by the respondent No.2. (Copy of the order is attached as annexure "B").
4. That the appellant was adjusted as SDEO(F) Puran Shangla and it was pertinent to mention that previously she has remained posted on the said post for four and half years.

5. That on the emergence of Care- Taker government, the transfer order already issued was cancelled in a arbitrary manner vide the impugned order No. 5480-84/A-17/Transfer/Shangla dated: 3-3-2023 by the same respondent No.2. (Copy of the impugned order dated: 3-3-2023 is attached as annexure "C").
6. That again respondent No.2 issued yet another order dated: 30 March 2023 vide the impugned notification No. SO(MC) E&SED/4-16/2022/Posting/Transfer/MC posted respondent No.5 as SDEO (F) Puran. He was transferred from the post of SST (G) GMS, Balu Puran. (Copy of the impugned order/notification is attached as annexure "D").
7. That the appellant submitted departmental appeal/representation dated 3-4-2023 to the concerned authorities but till date neither it has been decided nor any intimation has been made to the petitioner. (Copy of the appeal/representation is attached as annexure "E").

8. That prior to approaching this Honorable Court, she has approached the Honorable Peshawar High Court Swat Bench, wherein she has been directed to approach the appropriate forum. (Copy of the Order/Judgement of the Honorable High Court dated 26-04-2023 is attached herewith as annexure-F)
9. That appellant as per direction of the Honorable Peshawar High Court, submits departmental appeal before the Director Elementary and Secondary Education for the redressal of his genuine grievances but of no avail. (Copy of the departmental appeal submitted to Director Elementary and Secondary Education, Khyber Pakhtunkhwa is attached herewith as annexure-G)
10. That feeling seriously aggrieved from the above arbitrary and illegal orders of the respondents, the appellant, having no other adequate efficacious remedy available at the moment, the appellant approaches this Honorable Court, inter-alia on the following grounds:

5

**GROUND:**

- A. That both the impugned orders dated: 3-3-2023 and dated 30-03-2023 are against the law, rules, and procedure of the subject matter.
- B. That the transfer, posting order of the appellant as made by the previous government and the care-taker government was not competent to cancel those orders or to transfer and appoint any person instead of the appellant.
- C. That the appellant has previously served for four and half years for the post of SDEO (F) Puran, Shangla having already the requisite qualification and experience for the said post. Moreover, the appellant has already performed her duties to the complete satisfaction of her superior, colleagues and subordinate staff.
- D. That the post in question is purely a female post dealing with the female staff, teachers and students. Now to cancel the transfer/posting of the appellant (Female Officer) and to appoint instead a male officer is neither lawful nor a reasonable proportional.

6

- E. That the orders impugned herein are violative of the fundamental rights of the appellant as well as the impugned orders amount to discrimination against the female civil servants.
- F. That the treatment meted out to the appellant is highly discriminatory and in clear violation of the orders of the Election Commission of Pakistan as mandated under Articles 218 (3), 220 of the Constitution of Islamic Republic of Pakistan read with section 4, 5, 8 (c) and 220 of the Election Act, 2017.
- G. That any other ground/document would be raised during the course of the arguments with the prior permission of this Honorable Court.

***It is, therefore, most humbly prayed that on acceptance of this appeal, the impugned orders dated: 3-3-2023 and 30-3-2023 may kindly be declared as illegal, unlawful, and she may kindly be allowed to resumed her duties as SDEO (F) Circle Puran Shangla.***



(7)

*Any other remedy which is not specifically asked for and this Hon'ble Court deems fit in the circumstance of the case may also be granted to the appellant.*

Appellant

Through



Jamal Ud Din Khattak

Dated:

Advocates High Court.

9

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
AT PESHAWAR.**

C.M. No. \_\_\_\_/2023

In

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

Mst Shahi Gulfam.....(Appellant)

**V E R S U S**

Secretary to Government Khyber Pakhtunkhwa Elementary and  
Secondary Education, Peshawar and others

.....(Respondents)

**APPLICATION FOR SUSPENSION OF  
IMPUGNED WITHDRAWAL AND TRANSFER  
ORDERS DATED 3-3-2023 and 30-3-2-2023,  
TILL THE FINAL DECISION OF THE MAIN  
SERVICE APPEAL.**

**Respectfully Sheweth:**

1. That the above titled Service is being filed by the appellant before this Hon'ble Tribunal, in which no date of hearing has yet been fixed.
2. That on the face of it, the appellant has got a strong arguable case and is sanguine about its success.
3. That the balance of convenience also lies in favour of appellant.

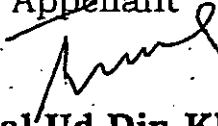
(79)

4. That if the operation of the impugned transfer order mentioned in the heading of the cited application is not suspended then the appellant would sustain irreparable loss.

**It is, therefore prayed that on acceptance of this application, the operation of the impugned withdrawal and transfer order dated 03-03-2023 and 30-03-2023, may kindly be suspended, till the final disposal of the main Service Appeal.**

Through

Appellant



Dated: -

**Jamal Ud Din Khattak**

Advocate High Court,  
Peshawar.

27

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

C.M. No. \_\_\_\_/2023

In

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

Mst Shahi Gulfam.....(Appellant)

**V E R S U S**

Secretary to Government Khyber Pakhtunkhwa Elementary and  
Secondary Education, Peshawar and  
others.....(Respondents)

**AFFIDAVIT**

I, Nasrullah Khan S/O Saman Khan (Attorney For Appellant) do  
hereby solemnly affirm and declare that all the contents of the  
accompanying **Application** are true and correct to the best of  
my knowledge and belief and nothing has been concealed from  
this Hon'ble Tribunal.



**DEPONENT**  
CNIC: 1505-6184207-1



**BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL**

**AT PESHAWAR.**

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

Mst: Shahi Gulfam W/O Nasrullah Khan R/O Chouga, Tehsil  
Puran District Shangla.....(Appellant)

Versus

Secretary to Government Khyber Pakhtunkhwa, Elementary  
and Secondary Education, Peshawar and  
others.....(Respondents)


**ADDRESSES OF THE PARTIES**

**APPELLANT:**

Mst: Shahi Gulfam W/O Nasrullah Khan R/O Chouga, Tehsil  
Puran District Shangla.

**RESPONDENTS:**

- 1- Secretary to Government Khyber Pakhtunkhwa, Elementary  
and Secondary Education, Civil Secretariate, Peshawar.
- 2-Director Elementary and Secondary Education, Khyber  
Pakhtunkhwa, Peshawar.
- 3- Deputy Director Establishment, Elementary and Secondary  
Education (F); Khyber Paktunkhwa, Peshawar.
- 4-District Education Officer (Female), Shangla
- 5- Irfanullah (TC) BS-16 presently posted as SST (G) GMS Balu  
Puran District Shangla.

Through   
Appellant  
Jamal Ud Din Khattak

Dated:

Advocates High Court.

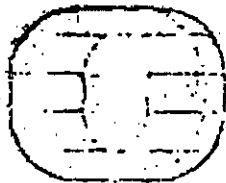


**PAKISTAN** National Identity Card

ISSUED BY GOVERNMENT OF PAKISTAN

Name  
**Shahi Gulfam**

شاهی گلفام



Husband Name  
**Nasrullah Khan**

نسر اللہ خان

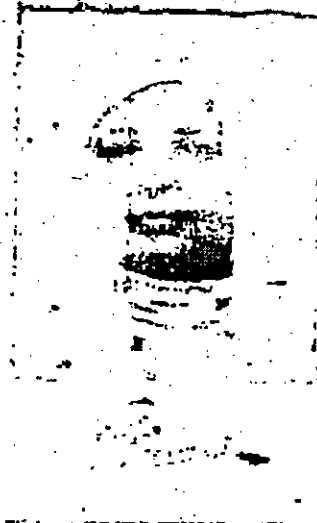
Gender: Country of Stay  
**F Pakistan**

Identity Number  
**15505-4096640-8**

Date of Birth  
**01.07.1976**

Date of Issue  
**25.06.2018**

Date of Expiry  
**25.06.2028**



Holder's Signature

*Handwritten signature*

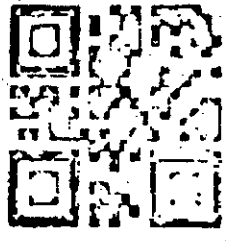
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15505-4096640-8

مجموعہ چوہا، کھیل پورن، ضلع شاہ



11376 647941

کشمیر کا رڈ ملنے پر ترقی پزیر ہو گیا ہے جس کی وجہ سے اب وہاں

*Am*  
Attested

(15)

"B" B



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

**NOTIFICATION**

Consequent upon approval by the Competent Authority, the following SST teachers are hereby transferred/adjusted in the best interest of public service with immediate effect:

S.No	Name & Designation	Station	Remarks
1	Mrs. Noorun SST-G working as ASDEO (F) Circle Makhozi Shangla	SDEO (F) Circle Martang Shangla	A.V.P
2	Mrs. Shabnum Bibi SST-G GGMS Bazar Kot Shangla	ASDEO (F) Circle Makhozi Puran Shangla	Vice S.No.01
3	Mrs. Shahi Gulam SST-G GGMS Chauga Puran Shangla	SDEO (F) Circle Martang Puran Shangla	Against Leave Vacancy

Note:-

- 1) Charge report should be submitted to all concerned.
- 2) No TADA is allowed.

**DIRECTOR**  
Elementary & Secondary Education  
Khyber Pakhtunkhwa, Peshawar

Encls No. 7845/48 /A-17/Transfer/Shangla

Dated Peshawar the 16-1- 2023

Copy of the above is forwarded to the:-

- 1 District Education Officer (Female) Shangla.
- 2 District Accounts Office Shangla.
- 3 Official Concerned
- 4 PA to Director (E&SE) Khyber Pakhtunkhwa.
- 5 M/ File.

Deputy Director Establishment (F)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa, Peshawar

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**DIRECTORATE OF ELEMENARY & SECONDARY  
EDUCATION KHYBER PAKHTUNKHWA PESHAWAR**

37

**NOTIFICATION**

Consequent upon approval of the Competent Authority, the transfer order issued vide this office Notification Endst. No. 7845-49/A-17/Transfer/Shangla Dated: 16-01-2023 at is hereby withdrawn with immediate effect in the best interest of public.

Director  
Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar

Endst.No 5486-84 / A-17/Transfer/Shangla

Dated 03/03/2023

Copy of the above is forwarded to the:-

1. District Education Officer (Female) Shangla.
2. District Accounts Officer Shangla.
3. Official Concerned
4. PA to Director (E&SE) Local Office
5. Master file.

Deputy Director Establishment (F)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar

*[Handwritten Signature]*  
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*[Handwritten Initials]*  
11-1/23

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(17)

D

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

Dated: 30<sup>th</sup> March, 2023

**NOTIFICATION**

**NO.SO/INCIE&SED/4-16/2022/Posting/transfer/MC:** The following posting/ transfer are hereby ordered with immediate effect, in the best public interest -

Sr. No	Name & Designation	Present place of Posting	Proposed Posting	Remarks
1.	Akhtar Naqom TC BS-17	SS (Urdu) GHS at Gul Bal Shangla	SDEO (Male) Puran Shangla	V.S.No.2
2.	Sharif Khan TC BS-16	SDEO (Male) Puran Shangla in OPS	SST (G) GHS Chagum Shangla	V.S.No.4
3.	Zahoor Muhammad TC BS-17	SS (Islamiyat) GHSS Chawga	SDEO (Female) Martung Shangla	AVP
4.	Shafi Ullah TC BS-16	SST (G) GHS Chagum Shangla	SDEOM (Male) Martung	V.S.No.5
5.	Mr. Irkhar Ahmad MC BS-17	SDEOM (Male) Martung	SDEO (Male) Chakisar Shangla	AVP
6.	Riaz Ahmad TC BS-16	SDEO (Male) Besham Shangla	Services Placed at the Disposal of DEO (Male) Shangla for further Posting	
7.	Fazal Elahi TC BS-16	SST GHS Kumang Shangla	SDEO (Male) Besham Shangla in OPS	V.S.No.6
8.	Irfan Ullah TC BS-16	SST (G) GMS Balu Puran	SDEO (Female) Puran in OPS	V.S.No.9
9.	Tehseen Kosar MC BS-17	SDEO (Female) Puran	Report to Directorate of E&SE for further Posting	

**SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA  
E&SE DEPARTMENT**

**Ends: of even No. & date:**

Copy forwarded for information to the: -

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
3. Director EMIS, E&SE Department with the request to upload the same on the official website of the department.
4. District Education Officers (Male), Concerned.
5. District Accounts Officers Concerned.
6. Additional Director General (Election-1) Election Commission of Pakistan, Islamabad
7. PS to Advisor to Chief Minister for E&SE Khyber Pakhtunkhwa.
8. PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
9. Master file.

111/30/3/2023  
(IMRAN ZAMAN)  
SECTION OFFICER (Management Cadre)

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مخترت جناب سیکرٹری صاحب ایڈمنسٹریٹو ایجوکیشن پشاور  
اپیل ایجنٹسٹ بحیثیت SDEO (F) پورن ضلع شاہد

جناب عالی!

مخترت ہے کہ مورخہ 16 جنوری 2023 کو میری ایجنٹسٹ بحیثیت SDEO (F) نمبر 7845-49/A-17 کو پورن ضلع شاہد سے پہلے دو نمونہ ذکر کردہ دست پر ماڈل چار سال روٹنگ ہوں۔ سابقہ تجربے کی بنیاد اور ملکہ کے سرورسٹ کے پیش نظر میری ایجنٹسٹ ہو چکی تھی۔ لیکن سیکرٹری (مکمل حکومت) کے آتے ہی بمطابق پمیل نمبر 84-54801 مورخہ 03/02/2023 کو میرا آرڈر Withdraw کیا گیا اور مذکورہ پوسٹ پر چھٹی نمبر SO(MC)E&SE/4-16-2023 مورخہ 30/03/2023 کے تحت میری نمبر 8 پر میری جگہ عمران احمد SST GMS Baloch کا ایجنٹسٹ کیا گیا۔ جو کہ انصاف اقدار و دیات اور اختیارات کے بنیاد پر میری حق ٹہنی ہے۔ اور سیاسی بنیاد پر مجھے اپنی پوسٹ سے ہٹایا گیا جو میرا قانونی حق ہے۔

جب محکمہ تعلیم نے چاہا تو میں نے مشکل وقت اور محدود وسائل میں اپنی خدمات بطریق احسن نبھائی۔ اب چونکہ ملازم ہوتے ہوئے میرا کسی سیاسی کاڈ آرڈر سے کوئی تعلق نہیں۔ لہذا میرے حق کی بنیاد پر میری SDEO (F) پورن کے پوسٹ پر ایجنٹسٹ کی جائے۔ تا حیات دعا گو رہوں گی۔ فقط

AS (SDEO)

الحارثہ  
شاہی گلہام  
SST جنرل چوگا شاہد

4417

3/4/2023

3/4/23

Attested

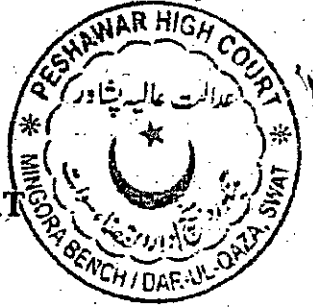
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19

**JUDGMENT SHEET**

**IN THE PESHAWAR HIGH COURT  
MINGORA BENCH (DAR-UL-QAZA), SWAT  
(Judicial Department)**



W.P. No. 384-M/2023

With interim relief.

Mst. Shahi Gulfam ..... (Petitioner)

vs.

Government of Khyber Pakhtunkhwa through Secretary  
Education & 04 others ..... (Respondents)

Present: Mr. Jamal-ud-Din Khattak, Advocate, for  
the petitioner.

Date of hearing: 26.04.2023

**JUDGMENT**

SHAHID KHAN, J.- Mst. Shahi Ghulfam,  
the petitioner, has filed the instant writ petition  
under Article 199 of the Constitution of Islamic  
Republic of Pakistan 1973, with the following  
prayer:

“It is, therefore, most humbly  
prayed that on acceptance of this  
writ petition, the impugned  
orders dated 03.03.2023 and  
30.03.2023 may kindly be  
declared as illegal, unlawful,  
unconstitutional and ineffective  
upon the rights of the petitioner  
and may kindly be set aside. Any  
other remedy which is not  
specifically asked for and this  
Hon'ble Court deems fit in the  
circumstance of the case may also  
be granted to the petitioner”

**ATTENDED**  
Examiner  
Peshawar High Court Bench  
Mingora Dar-ul-Qaza, Swat.

20

2. At the very outset, learned counsel for the petitioner has been confronted with the proposition that the petitioner being a civil servant, however, has sought the cancellation of her transfer order through the subject writ petition, it is hard fact that the relief sought pertains to the terms & conditions of her service. Law on subject speaks loud & clear under Article 212 (2), Constitution of Islamic Republic of Pakistan, 1973, the relief so sought has its origin in the terms & conditions of service. On this score alone, the Court is *functus officio* and hard to assume its jurisdiction under Article 199 of the Constitution, to redress the grievances of the petitioner and to allow a writ of mandamus in her favour.

8/2

3. Learned counsel for the petitioner has been heard at length and the record gone through.

4. There is no denial to the legal proposition that the petitioner being an employee of the Education Department and does qualify to be a Civil Servant. The subject proposition has fairly been conceded by the learned counsel for the petitioner at the bar coupled with the fact that the same is floating on the surface of the record in view of the

Bakht Sher Ali Khan/Serna

(D.D) Hon'ble Mr. Justice Muhammad Nazeem Anwar  
Hon'ble Mr. Justice Shahid Khan

~~ATTYESTED~~  
Examiner  
Peshawar High Court Bench  
Mingora Dar-ul-Qaza, Swat.

(21)

documents so made part & parcel of the file/record and the appointment order of the petitioner speaks load & clear in this regard that she is a civil servant within the meaning of Section 2, Khyber Pakhtunkhwa Civil Servants Act, 1973. It is relevant to be noted that under Article 240, Constitution of Islamic Republic of Pakistan, the terms & conditions of service of all the federal employees shall be regulated by an Act enacted by the Parliament, while the terms & conditions of services of all the employees of provincial government shall be regulated by an Act passed by the concerned Provincial Assembly. As per the aforesaid mandate of Constitution of Islamic Republic of Pakistan, the Provincial Government of Khyber Pakhtunkhwa has enacted an Act i.e. "Civil Servants Act of 1973", where Chapter-II stipulates the terms & conditions of service of a civil servant, the said Chapter comprises from sections No. 3 to 22, whereof, section 10 deals with the "transfer" of a civil servant/government employee.

5. So, in view of the above constitutional and legal provisions, it is established on surface of the record that the petitioner is a civil servant and

Bakht Sher Ali Khan/Steno

(D.9) Hon'ble Mr. Justice Muhammad Naqem Anwar  
Hon'ble Mr. Justice Shahid Khan

ATTESTED  
Examiner  
Peshawar High Court Bench  
Mingota Dar-ul-Qaza, Swat.

22

her grievances agitated in the present petition coupled with at the bar pertains to one her terms & conditions of service.

6. Now, the next question shall be the selection of forum, competent enough to redress the grievance of a civil servant with respect to his/her terms & conditions of service, as in the case in hand. There shall be no way out but reference to sub-Article (2) of Article 212, Constitution of Islamic Republic of Pakistan to address the grievance of an aggrieved person/civil servant.

8/5

7. It is reproduced for ready reference:

**212. Administrative Courts and Tribunals.**

***(1) Notwithstanding anything hereinbefore contained, the appropriate Legislature may by Act provide for the establishment of one or more Administrative Courts or Tribunals to exercise exclusive jurisdiction in respect of:-***

***(a) matters relating to the terms and conditions of persons who are or have been in the service of Pakistan, including disciplinary matters;***

***(b) matters relating to claims arising from tortious acts of Government, or any person in the service of Pakistan, or of any local or other authority empowered by law to levy any tax or cess and any servant of such authority acting in the discharge of his duties as such servant; or***

Bakht Sher Ali Khan/Siena

(D.B) Hon'ble Mr. Justice Muhammad Naqam Anwar  
Hon'ble Mr. Justice Shahid Khan

**ATTACHED**  
Examiner  
Peshawar High Court Bench  
Mingora Dal-ul-Qaza, Swat.

(23)

(c) matters relating to the acquisition, administration and disposal of any property which is deemed to be enemy property under any law.

(2) Notwithstanding anything hereinbefore contained where any Administrative Court or Tribunal is established under clause (1), no other court shall grant an injunction, make any order or entertain any proceedings in respect of any matter to which the jurisdiction of such Administrative Court or Tribunal extends and all proceedings in respect of any such matter which may be pending before such other court immediately before the establishment of the Administrative Court or Tribunal; other than an appeal pending before the Supreme Court, shall abate on such establishment:

*Provided that the provisions of this clause shall not apply to an Administrative Court or Tribunal established under an Act of a Provincial Assembly unless, at the request of that Assembly made in the form of a resolution, Majlis-e-Shoora (Parliament) by law extends the provisions to such a Court or Tribunal."*

8. The above reproduced Article specifically indicates that all the administrative Courts and Tribunals shall assume the jurisdiction in respect of the matters relating to the terms & conditions of the person(s) (who are or have been) in service of Pakistan or of Provincial Government

Dakht Sher Ali Khan/Secy.

(D.B) Hon'ble Mr. Justice Muhammad Naeem Anwar  
Hon'ble Mr. Justice Shahid Khan

ATTESTED

Examiner  
Peshawar High Court Bench  
Mingora Bar, Mingora, Swat.



24

and sub-Article (2) of Article 212 Constitution of Pakistan specifically bars any other forum/Court to interfere with, in the matters relating to the terms & conditions of a civil servant. In the case of "Peer Muhammad v/s Government of Baluchistan through Chief Secretary & others" reported as 2007 SCMR 54, the Apex Court has held:

8750

"the question of posting/transfer relates to terms and conditions of a Government servant and Service Tribunal would have exclusive jurisdiction to dilate upon and decide such matters and Constitutional jurisdiction cannot be invoked to get such controversies resolved. We have also adverted to the question of mala fides which according to the learned Advocate could have been dilated upon in Constitutional jurisdiction which is not correct because the provisions as contained in Article 212 of The Constitution of Islamic Republic of Pakistan ousts jurisdiction of all other Courts and orders of the departmental authority even though without jurisdiction or mala fide can be challenged only before the Service Tribunal and jurisdiction of all Courts including High Court is specifically ousted. The plea of mala fide does not confer upon High Court jurisdiction to act in the matter in view of the Constitutional ouster as contained in Article 212 of the Constitution of Islamic Republic of Pakistan and learned Service Tribunal has full jurisdiction to interfere in such-like matters."

Bakht Sher Ali Khan/Steno

(D.B) Hon'ble Mr. Justice Muhammad Nazeem Anwar  
Hon'ble Mr. Justice Shahid Khan

ATTESTED  
Examiner  
Peshawar High Court Bench  
Mingora Dar-ul-Qaza, Swat.

(25)

Similarly, in the case of "Kh. Abdul

Wahid v. Chairman, WAPDA" reported as 1986

SCMR 1534 the Apex Court has held:

"if the petitioners are able to show that the action against them was indeed actuated by *mala fides*, the Tribunal would not be debarred from taking note of this."

9. It is pertinent to highlight that under section 22 of the Civil Servants Act, 1973, the petitioner is required to approach the appropriate forum for appropriate remedy through a departmental appeal to the next higher authority who has passed the impugned order, in the case in hand, it shall be the Director Elementary & Secondary Education, Government of Khyber Pakhtunkhwa, Peshawar, (respondent No. 2 herein) as the impugned order was passed by District Education Officer and then after the decision of the departmental authority or waiting for statutory period of 90 days, the petitioner could approach the Khyber Pakhtunkhwa Service Tribunal for the redressal of her grievances by filing a service appeal.

Bakht Sher Ali Khan/Siam

(U.B) Hon'ble Mr. Justice Mohammad Naeem Anwar  
Hon'ble Mr. Justice Shahid Khan

**ATTACHED**  
Examiner  
Peshawar High Court Bench  
Mingora Dar-ul-Qaza, Swat.

(26)

10. In view of what has been discussed above, the instant petition is neither maintainable nor entertainable before this Court, therefore, it is dismissed, in limine. However, the petitioner may approach the appropriate forum for an appropriate remedy, if, so desired or directed.

Date of announcement.

Di: 26.04.2023

Date of writing judgment

Di: 26.04.2023

*[Signature]*  
JUDGE

*[Signature]*  
JUDGE

S.No 46  
Name of Applicant Naseerullah Khan  
Date of Presentation of Applicant 26-04-23  
Date of Completion of Copies 08-05-23  
No of Copies 17  
Urgent Fee -  
Fee Charged 68/-  
Date of Delivery of Copies 08/05/23

Certified to be true Copy

*[Signature]*  
EXAMINER  
Peshawar High Court Bench  
Mingora/Dar-ul-Qaza, Swat

Office  
27/04/2023

بخدمت جناب ڈائریکٹر ایلیمینٹری اینڈ سیکنڈری ایجوکیشن، خیبر پختونخواہ، پشاور

Representation / اپیل

جناب عالی!

گزارش ہے کہ مورخہ 16.01.2023 کو میری ایڈجسٹمنٹ / پوسٹنگ / ٹرانسفر بحوالہ نمبر 7845-49/A-17 کو SDO(F) علاقہ پورن ضلع شانگلہ ہوا تھا جبکہ اس سے پہلے بھی سائل مذکورہ دو دفعہ مذکورہ پوسٹ پر ساڑھے چار سال رہ چکی ہے۔ لیکن بد قسمتی سے کبیر ٹیکر / نگران حکومت کے آتے ہی بمطابق چٹھی نمبر 5480/84 مورخہ 03.02.2023 کو میرا آرڈر Withdraw کیا گیا جو کہ میرا سر زیادتی، اور مٹی بر ظلم ہے اور مذکورہ پوسٹ پر بحوالہ چٹھی نمبر SO(MC)E&SE/4-16-2023 مورخہ 30.03.2023 کے تحت سیریل نمبر 8 پر میری جگہ عرفان اللہ SST GMS Balo کو ایڈجسٹ کیا گیا جو کہ انصاف، اقدار، روایات اور خلاف قانون و آئین ہے۔ جس کی بنیاد پر میری حق تلفی کی گئی اور سیاسی بنیاد پر مجھے اپنے پوسٹ سے ہٹایا گیا جو کہ میرا قانونی حق ہے۔ اس سے پہلے بھی سائل نے ایک عدد درخواست جناب سیکرٹری صاحب ایلیمینٹری اینڈ سیکنڈری ایجوکیشن، پشاور کو گزاری تھی جس پر نا حال کوئی عملدرآمد نہ ہوئی۔ اس کے علاوہ من سائل نے پشاور ہائی کورٹ میٹروپولیٹن (دارالقضا) سوات سے بھی رجوع کی جنہوں نے ہدایت کی کہ آپ ڈائریکٹر ایلیمینٹری اینڈ سیکنڈری ایجوکیشن، پشاور سے رابطہ کریں، لہذا درخواست لھذا کی ضرورت لاحق ہوئی۔

لہذا استدعا ہے کہ حکم متذکرہ بالا کو واپس کر کے من سائل کی دادرسی کی جاوے۔ سائل نے عمر دعا گو و شکر گزار رہیں گی۔

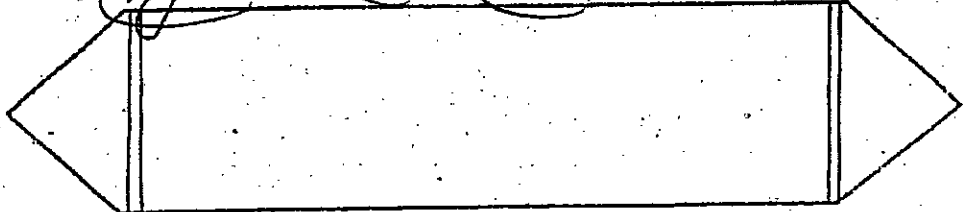
العارضی

سائل: مسماۃ شاہی گلگام، SST جنرل چوگاہ، ضلع شانگلہ

رابطہ نمبر 0344-2228582

(28)

Services Tribunal  
Chyber Pakhtunkhwa بچراالت



2 مہنجاب  
بنام

Mst. Shahn Gul Faran

موزخه  
مقدمه  
دعوی  
م.م

Secretary to Govt W.P.A. Education  
باعت خیر آنگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے بیرونی وجوہات وہی وکل کاروائی متعلقہ  
آن مقام Jamalullah Khatli کے

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کمال اختیار ہوگا۔ نیز  
دیکل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب وہی اور اقبال دعوی اور  
بصورت ڈگری کرنے اجراء اور صولی چیک درو پیار عرضی دعوی اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم بیرونی یا ڈگری کی طرفہ یا اپیل کی برآمدگی اور منسوخی  
نیز دائر کرنے اپیل نگرانی و نظر ثانی و بیرونی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ  
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ درجہ جانا التوائے مقدمہ کے سبب سے ہوگا۔  
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ بیرونی  
تذکرہ کریں۔ لہذا اذکالت نامہ لکھد یا کہ سندر ہے۔

المرتوم \_\_\_\_\_ ماہ \_\_\_\_\_ 20

العبد \_\_\_\_\_ واہ العبد  
مقام کے لئے منظور ہے۔

Attest  
Signature  
28-9-2023