

30.09.2022

Appellant present through counsel.

Riaz Khan Paindakhel, learned Assistant Advocate General for respondents present.

Request for adjournment was made on behalf of appellant in order to prepare the brief. Adjourned. To come up for arguments on 19.10.2022 before D.B.



(Fareeha Paul)
Member (E)



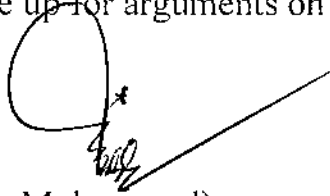
(Rozina Rehman)
Member (J)

19.10.2022

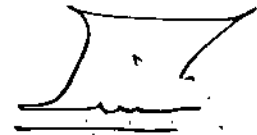
Clerk of learned counsel for the appellant present. Mr. Asif Masood Ali Shah, Deputy District Attorney for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today due to some domestic engagements. Adjourned.

To come up for arguments on 29.11.2022 before the D.B.



(Mian Muhammad)
Member (E)



(Salah-Ud-Din)
Member (J)

29.11.2022

DUE to rush of work. This case has been deleted. To come up for the same as before on 21.02.2023.


Reader.


22.06.2022

Nemo for appellant.

Naseer Ud Din Shah learned Assistant Advocate General alongwith Faheem Khan Section Officer for respondents present.

Notice be issued to appellant/counsel for 21.07.2022 for arguments before D.B.


(Fareeha Paul)
Member(E)



(Rozina Rehman)
Member (J)


21.07.2022

Junior to counsel for appellant present.

Muhammad Adeel Butt, learned Additional Advocate General for respondents present.

Former requested for adjournment as senior counsel is busy before Hon'ble Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 12.08.2022 before D.B.


(Fareeha Paul)
Member(E)


(Rozina Rehman)
Member (J)

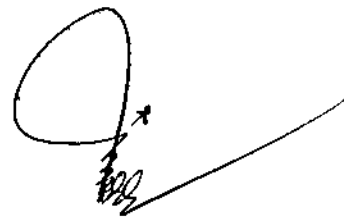
12-8-2022 Proper DB not available the case is
adjourned to 30-9-2022


Reader

08.04.2022

Clerk of learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Muhammad Faizan Zeb, SO for respondents present.

Written reply/comments submitted which is placed on file. A copy of the same is also handed over to the clerk of learned counsel for the appellant. Adjourned. To come up for rejoinder and arguments on 25.04.2022 before D.B. In the meanwhile, the operation of the impugned order shall remain suspended till date fixed.



(MIAN MUHAMMAD)
MEMBER(E)

25th April, 2022

Counsel for the appellant present. Mr. Kabirullah Khattak, Addl. AG for the respondents present.

Learned counsel for the appellant seeks adjournment to submit rejoinder. Adjourned. Rejoinder in the meantime. To come up for arguments on 31.05.2022.



Chairman

31.05.2022

Counsel for the appellant present.

Muhammad Riaz Khan Paindakheil learned Assistant Advocate General for respondents present.

Former requested for adjournment in order to prepare the brief. Adjourned. To come up for arguments on 22.06.2022 before D.B.



(Fareeha Paul)
Member(E)



(Rozina Rehman)
Member (J)

04.02.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 21.02.2022 for the same as before.


Reader


21.02.2022


Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 25.03.2022 for the same as before.


Reader.

25.03.2022

None for the appellant present. Mr. Kabirullah Khattak, Addl: AG present.

 Written reply/comments on behalf of respondents not submitted. Notices be issued to the respondents for submission of written reply/comments. Notice be also issued to the appellant and his counsel for appearance. Adjourned. To come up for written reply/comments on 08.04.2022 before S.B. In the meanwhile, the operation of the impugned order shall remain suspended till date fixed.


(MIAN MUHAMMAD)
MEMBER(E)

23.12.2021

This case was fixed for 09.02.2022 but on the written request of learned counsel for appellant, case file was requisitioned for today.

Appellant present through counsel. Preliminary arguments heard and record perused.

Points raised need consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices of the be issued to the respondents for submission of reply/comments. To come up for reply/comments on 19.01.2022 before S.B.

Annexed with the memo of appeal is an application for interim relief. Notice of this application be served upon respondents. In the meanwhile, operation of the impugned order shall remain suspended, if not acted upon earlier.

Appellant Deposited
Security & Process Fee

(Rozina Rehman)
Member (J)

19.01.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG for respondents present.

Reply/comments on behalf of official respondents are still awaited. Learned Additional Advocate General sought time for submission of reply/comments. Granted. To come up for reply/comments before the S.B on 04.02.2022. In the meanwhile, the operation of the impugned order shall remain suspended till date fixed.



(Atiq-Ur-Rehman Wazir)
Member (E)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 7869/2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	14/12/2021	<p>The appeal of Mr. Said Muhammad presented today by Mr. Yasir Saleem Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>2-</p> <p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on <u>09/02/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No 7869/2021

Said MuhammadAppellant

VERSUS


Government of KPK through Chief Secretary & others
.....Respondents

INDEX

S No	Description of Documents	Annexure	Pages
1.	Service appeal with affidavit		1-6
2.	Copy of notification dated 12.03.2021	A	7
3.	Copy of notification dated 25.11.2021	B	8
4.	Copy of departmental appeal 26.11.2021 & postal receipts dated 26.11.2021	C & D	9-11
5.	Wakalat Nama	D	12

Dated: 09.12.2021

Through: Appellant

Said Muhammad

Yasir Saleem
Advocate, High Court
Peshawar

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No _____/2021

Said Muhammad, Deputy District Education Officer (DDEO) in OPS,
North Waziristan.

.....Appellant

VERSUS

1. Government of KPK through Chief Secretary Civil Secretariat Peshawar.
2. Secretary Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. Director, Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar.
4. District Education Officer (Male), North Waziristan.

.....Respondents

**APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT
1974 AGAINST THE ORDER DATED 26.11.2021 VIDE
WHICH THE APPELLANT HAS BEEN TRANSFERRED
FROM NORTH WAZIRISTAN AND HS SERVICES HAS
BEEN PLACED AT THE DISPOSAL OF DIRECTORATE
OF E&SE AGAINST WHICH HIS DEPARTMENTAL
APPEAL DATED 26.11.2021 HAS NOT BEEN
RESPONDED TILL DATE.**

PRAYER:-

**ON ACCEPTANCE OF THIS SERVICE APPEAL ORDER
25.11.2021 TO THE EXTENT OF APPELLANT MAY KINDLY
BE SET-ASIDE AND THE APPELLANT MAY BE ALLOWED
TO CONTINUE HIS DUTIES AS DDEO, NORTH
WAZIRISTAN WITH BACK AND CONSEQUENTIAL
BENEFITS.**

Respectfully Submitted:-

I very humbly submit few lines for your kind and sympathetic consideration.

1. That the appellant has been initially appointed as SST vide order dated 01.09.2009 and was posted as GHS Shamoza.
2. That ever since appointment the appellant had performed his duties as assigned with great zeal and devotion and there was no complaint what so ever regarding his performance.
3. That during the course of service the appellant was transferred from ADEO Development to DEO Office Miran Shah vide order dated 01.12.2014.
4. That the appellant was promoted as SS vide office order dated 10.05.2018 and posted at GHSS Sarobai Ghari Orakzai where he took his charge and started performing his duties from 11.05.2018.
5. That while performing his duties in the said capacity he was again transferred and posted as DDEO Male Miran Shah North Waziristan in OPS vide notification dated 12.03.2021 against vacant post. *(Copy of notification dated 12.03.2021 is attached A).*
6. That in pursuance to the notification the appellant took charge of his post and started performing his duties. However, after eight months the appellant has been transferred from North Waziristan and his services has been placed at the disposal of Directorate of E&SE Peshawar vide notification dated 25.11.2021. *(Copy of notification dated 25.11.2021 is attached as annexure B).*
7. That felling aggrieved from the office order dated 25.11.2021, the appellant filed his departmental appeal dated 26.11.2021 however the same has not been responded till date. *(Copy of departmental appeal 26.11.2021 & postal receipts dated 26.11.2021 are attached C & D).*

8. That the impugned transfer order is illegal, against the facts, constitutional and liable to be set-aside inter alia on the following grounds.

GROUND OF SERVICE APPEAL :

1. That the appellant has not been treated in accordance with law, hence his rights guaranteed and secured under the constitution are badly violated.
2. That in fact there exist no exigencies of service nor the order of transfer cannot be termed as the public interest and does not tenable in the eye of law.
3. That it is pertinent to mention here that the Election Commission has imposed ban on all kinds of posting / transfer till the Local Government Elections that are scheduled to be held on 19.12.2021.
4. That the said order has badly affected the working environment in the office in the sense that the appellant is already working on the said post and the new incumbent is forcing to occupy the post.
5. That the impugned order is illegal, unlawful without lawful authority and passed with malafide intention in just to put the appellant in stress and mental & physical torture not in the prescribed period in violation of transfer posting policy the impugned order is passed is thus nality in the eye of law and thus not tenable.
6. That the appellant has not yet completed the normal tenure of his posting therefore the impugned order is also in violation of posting and transfer policy of the Provincial Government and also against the judgment of Apex Court reported in PLD 1995 Supreme Court Page 530 and 2013 PLD Supreme Court page 195.

- 7. That even otherwise it is not in the interest of department to make its employees rolling stone on one hand and the working atmosphere of the department is disturbed on the other hand and the employees are humiliated in their family life got disturbed.
- 8. That the impugned order is also illegal in the sense that the Election Commission has imposed ban in all kinds of posting / transfer within the province even then the appellant has been transferred due to political reasons on this ground too the impugned orders liable to be set aside.
- 9. That the appellant seeks leave of this Hon'ble Tribunal to take additional grounds at the time of arguments.

It is therefore, humbly requested that on acceptance of this service appeal order 25.11.2021 to the extent of appellant may kindly be set-aside and the appellant may be allowed to continue his duties as DDEO, North Waziristan with back and consequential benefits.

Dated: 09.12.2021

Through

Said Mubin
Appellant

Yasir Saleem
Advocate, High Court
Peshawar

CERTIFICATE:

It is certified that no such like appeal has earlier been filed by the appellant before this Hon'ble Tribunal.

ADVOCATE

AFFIDAVIT

It is solemnly affirm and declare on oath that the contents of this Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.

DEPONENT

Said Mubin
10-12-21

5

BEFORE THE SERVICE TRIBUNAL KPK PESHAWAR

Service Appeal No _____/2021

Said MuhammadAppellant

VERSUS

Government of KPK through Chief Secretary & others
.....Respondents

**APPLICATION FOR SUSPENSION OF THE OPERATION OF
THE IMPUGNED TRANSFER NOTIFICATION DATED
25.11.2021 TO THE EXTENT OF APPELLANT TILL THE FINAL
DISPOSAL OF THE INSTANT PETITION.**

Respectfully sheweth,

The applicant humbly submits as under

1. That the captioned service appeal is being filed today before this Honorable Tribunal in which date is yet to be fixed.
2. That all the three ingredients for the grant of status quo strongly lies in favor of the applicant.
3. That the contents of the service appeal may kindly be treated as integral part of the instant application.
4. That the applicant has a very strong case of merits and if the impugned transfer notification dated 25.11.2021 is not suspended, the very purpose of the instant appeal would become infructuous.

It is therefore prayed that on the acceptance of this application the operation of the impugned transfer notification dated 25.11.2021 may kindly be suspended till the final disposal of the instant appeal.

2

Saif Mahmood
Applicant

Through

YASIR SALEEM
Advocate, Peshawar
&

JAWAD UR-REHMAN
Advocate Peshawar

AFFIDAVIT

It is do hereby is solemnly affirm and declare on oath that the contents of the above implementation petition are true and correct to the best of my knowledge and belief and that nothing has been kept back or concealed from this Honourable Tribunal

Buel
10-12-11

Saif Mahmood
Deponent



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the March 12, 2021

NOTIFICATION

NO SO(SM)E&SE/D-7-1/2020/Posting/Transfer/MC:- Posting/transfer of the following officers of Elementary & Secondary Education is hereby ordered as mentioned against each, in the best public interest, with immediate effect:

Sr	Name, designation & present place of duty	Posted as	Remarks
1	Mr. Aurangzeb BS-17 (MC) SDEO (M) Bisham, Shangla	Deputy DEO (M) BS-18 Swat in OPS	AVP
2	Raza Jehangir SDEO (Male) Aboottabad, (MC BS-17)	DDEO (Male) BS-18 Manshra in OPS	AVP
3	Mr. Raees Ur Rehman SDEO (MC BS-17) SDEO (Male) Jadda Torghar	DDEO (M) Torghar BS- 18 in OPS.	AVP
4	Mr. Saif Muhammad SS H/Civict (BS-17) GHSS Sarobi Gardi Orakzai (TC BS-17)	DDEO (M) Miranshah North Waziristan TD BS- 18 in OPS	AVP
5	Mr. Ali Haider SDEO (BS-17) MC SDEO (M) Timergara Dir Lower	DDEO (M) BS-18 Dir Lower In OPS.	AVP
6	Mr. Mehboob Elahi SDEO (BS- 17) MC SDEO (M) Chitral Lower	DDEO (M) BS-18 Chitral Lower In OPS	AVP
7	Muhammad Zubair, BS-17, (MC) Deputy DEO (M) Charsadda In OPS	Deputy DEO (M) BS-18 Mohmand TD in OPS	AVP
8	Mr. Abdul Haleem BS-16 (MC) ASDEO, O/O DEO (M), Shangla	SDEO (M) BS-17 Bisham, Shangla in OPS	V.S#1
9	Muhammad Zahid BS-17 (MC) Assistant Director, Directorate of E&SE, KP	SDEO (M) BS-17 Kabal Swat	AVP
10	Mr. Saleh Badshah ASDEO BS-16 (MC) ASDEO (M) Serai Naurang Lukki Marwat	Assistant Director (BS-17) , Directorate of E&SE, KP.	V.S# 9 Promoted to BS-17 MC vide Notification No.SO(PE)/2- 6/DPC Meeting/2020 dated: 04.02.2021



(13) (8)

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone No. 091-9223533

NOTIFICATION

Dated Peshawar the November, 25 2021

NO.SO(SM)E&SED/7-1/2021/PT/G/MC: The Competent Authority is pleased to order the transfer of the following Officers of Elementary & Secondary Education Department, in the best public interest, with immediate effect:-

S#	Name & Designation	From	To
1.	Said Muhammad TC (BS-17)	Deputy District Education Officer (M) North Waziristan in OPS.	Services placed at the disposal of Directorate of E&SE Peshawar.
2.	Mr. Samir Ullah, TC (BS-16)	ADEO (P&D o/o DEO (Male) North Waziristan.	Services placed at the disposal of Directorate of E&SE Peshawar.
3.	Mr. Ihsan Ullah TC (BS-16)	ADEO o/o of DEO (Male) North Waziristan.	Services placed at the disposal of Directorate of E&SE Peshawar.

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) North Waziristan.
4. District Account Officers, North Waziristan.
5. Director, EMIS E&SE Department.
6. PS to Minister for E&SE Department.
7. PS to Secretary E&SE Department.
8. PA to Deputy Secretary (Admn) E&SE Department.
9. Officers concerned.
10. Office order file.

M. Javed
24-11-21
07/12/2021

(HAFEER UR REHMAN SHAH)
SECTION OFFICER (SCHOOLS MALE)

To the Honourable Chief Secretary KPV Peshawar
Subject: Departmental Appeal Against the
impugned order on dated 25.11.2021

Most humbly prayed that I was performing
my duty regularly as subject specialist at
HSS Serabi Wazir District orakzai, but suddenly
I was transferred to Deputy DFO NWJ D on dated
3.12.2021. I was paying my duty to the entire
satisfaction of my superior, but suddenly I was
transferred from the said post without any reason
and without also against the transfer/posting policy
also stated that I was transferred prematurely
which is also against the transfer posting policy
of KPV government

Further stated that the Election Commission of KPV
that transfer and posting of govt. servant will be
banned during Election tenure, so this transfer
is also unlawful so

hence there exist no exigencies and the order
can be termed as an order against interest and
is not tenable in the eyes of law

2) The impugned transfer order is also unlawful
passed against public interest and against posting
and transfer policy of KPV government. The
transfer order is also against the interest of
the government and the public. Hence the order
is not tenable in the eyes of law.

**Better Copy
Annexure C**

To,
The Honourable Chief Secretary KPK Peshawar.

Subject: **DEPARTMENTAL APPEAL AGAINST THE
IMPUGNED ORDER ON DATED 25.11.2021.**

R/Sir

Most humbly prayed that I was performing my so duty regularly as subject specialize at GHSS Serobi Gharbi District Orakzai, but suddenly I was transferred to Deputy DEO NWT D on dated 3.12.2021 I was paying my duty to the entire satisfaction of any superior, but suddenly I was transferred from the said post without cogent reason and which also against the transfer / posting policy also stated that I was transferred prematurely which is also against the transfer posting policy of KPK Government.

Further stated that the Election Commission of KPK that transfer and posting of Govt servant will be banned during Election tenure, so this transfer is also unlawful.

1. Infact there exist no exigencies of service nor the order can be termed as in public interest and than not tenable in the eye of law.
2. The impugned transfer order is illegal, unlawful, passed without jurisdiction and in violation of posting and transfer policy. The impugned order was passed in the ban period and no relaxation has been obtained from the competent authority, thus nullity in the eye of law.

Prayer: On the acceptance of this appeal the transfer order may be set aside and may be allowed as ODEO NCOTD

No. 112

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Rs. Ps. 50/-

Received a registered* addressed to _____

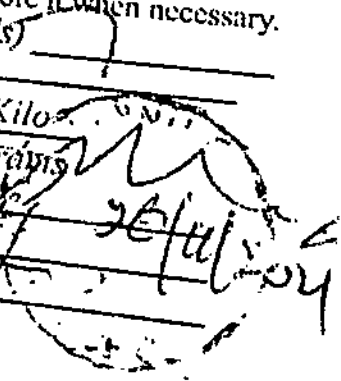
Date-Stamp

Initials of Receiving Officer _____ *Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

If insured.

Insured for Rs. (in figures) _____ (in words) _____

Insurance fee Rs. 0/- Ps. 0/- Weight (in words) _____ Kilo. _____ Grams _____
Name and address of sender: Chief Secretary
UPK Pathar



No. 112

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Rs. Ps. 50/-

Received a registered* addressed to _____

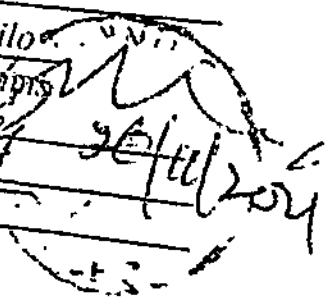
Date-Stamp

Initials of Receiving Officer _____ *Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

If insured.

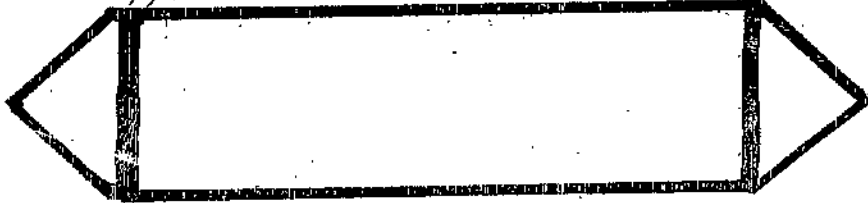
Insured for Rs. (in figures) _____ (in words) _____

Insurance fee Rs. 0/- Ps. 0/- Weight (in words) _____ Kilo. _____ Grams _____
Name and address of sender: Chief Secretary
UPK Pathar



بعدالت

۲۱ ۲۵ ۲۶



موزعہ
مقدمہ
دعویٰ
جرم

بنام کو

باعث تحریر آئندہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے بیروی و جواب دہی وکل کاروائی متعلقہ

آن مقام پاکستان کیلئے محمد امجد

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو رضی نامہ کرنے و تقرر ثالثہ فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور وصول چیک و روپیہ اور عیضی دعویٰ اور درخواست ہر قسم کی تصدیق زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم بیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور مشورشی نیز دائر کرنے اپیل نگرانی و نظر ثانی و بیروی 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 بہانے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پروا خستہ منظور قبول ہوگا۔ دوران مقدمہ میں جو شرطیں ہر جانش التوائے مقدمہ کے سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا اندیسے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ بیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

Saeed Muhammad

الرقوم ۱۵ ۱۷ ۲۰۲۱

العبد

کے لئے منظور ہے۔

بنام

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

In RE:
Service Appeal No. 786-P/21



Said Muhammad
VS
Govt of KPK & others

put up to the wavy chair - as
with relevant app -

22/12/21

**APPLICATION FOR FIXATION AND
HEARING OF APPEAL ALONGWITH
IDENTICAL NATURE / CONNECTED
APPEAL TITLED "SAMIR VS GOVT"
ALREADY FIXED FOR 23.12.2021.**

Respectfully Sheweth:

- Allowed
22/12/21
1. That the captioned appeal is pending before this Hon'ble Tribunal where next date of hearing is fixed for hearing on 09.02.2022.
 2. That contents of appeal may be considered as integral part of instant application.
 3. That the applicant has challenged the pre-mature and politically motivated therefore, and has also sought suspension on interim relief through instant service appeal.
 4. That the date fixed in the circumstances is too far and would not serve the purpose of applicant.

It is, therefore, most humbly prayed that the case in hand may be fixed and heard on 23.12.2021 for the administration of justice.

Through: Applicant

YASIR SALEEM
Advocate High Court
Peshawar

Date: ___/12/2021

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

S.A.#7869/2021

Said Muhammad DDEO North Waziristan..... (Appellant)

VERSUS

1. Govt of KPK through Chief Secretary, Civil Secretariat Peshawar
2. Secretary Elementary & Secondary Education, KPK Peshawar.
3. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
4. District Education Officer (Male), North Waziristan. (Respondents)

PARAWISE COMMENTS FOR & ON BEHALF OF THE RESPONDENTS 01 TO 4.

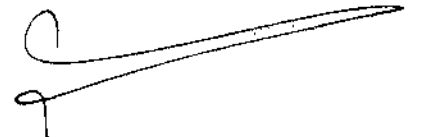
Respectfully Sheweth:

Preliminary Objections

1. The appellant has got no cause of action/locus standi.
2. The appellant has concealed the material facts from this Hon'able Service Tribunal, hence liable to be dismissed on this score.
3. The appellant has filed the instant appeal with malafide intension just to pressurize the Respondents for gaining illegal service benefits.
4. The instant appeal is against the prevailing law & rules.
5. The appellant is estopped by his own conduct to file the instant appeal.
6. The instant appeal is not maintainable in its present form and also in the present circumstances of the issue.
7. That the notification 25.11.2021 is in accordance with law, rules in vague and liable to be remained in field.
8. That the appellant has been treated as per law, rules and discretionary powers conferred upon Respondent under section-10 of Civil Servant Act 1973.
9. That the Appellant is not an aggrieved person and the appeal is bad for mis- joinder and non-joinder of necessary / proper parties.

FACTS.

1. Para-01 to 04 of the appeal needs no reply as the same pertains to service record of the appellant.
2. Para-05 of the appeal of the appellant is incorrect, hence vehemently denied, the appellant is actively misleading this hon'able tribunal, furthermore as per the statute and ruling of the apex court "A Government Servant is required to serve where his employer wanted to serve it is not a choice or prerogative of the employee to claim

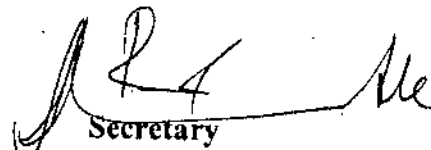


- right to serve at a place that he choose to serve". Moreover the appellant belongs to teaching cadre, hence not liable to be posted against management cadre post.
3. Para-06 of the appeal pertains to record. However, the notification dated 25.11.2021 is in accordance with law, rules in vague, hence liable to be remained in field.
 4. Para-07 of the appeal of the appellant is misleading as he has not waited for the decision of the appellant authority and approach this hon'able tribunal before the expiry of statutory period as provided by the law, hence on this score alone the appeal of the appellant is liable to be struck down as the law on the subject matter is alien about such procedure.
 5. Para-08 is incorrect as the appellant has no locus standi / cause of action to file the instant appeal.

GROUND:

1. Incorrect and not admitted. The Notification whereby the appellant has been transferred is in accordance with law / rules with lawful authority and effective. The Appellant has been treated in accordance with law.
2. Incorrect, already explained in the foregoing Para.
3. In reply it is stat that the Election Commission has directed the Federal Government as well as Provincial Government not to make transfer / posting of "Assistant Registration Officer, Supervisors and verifying officials appointed in connection with period and revision of electoral Rolls 2021-22 till completion of their respective assignments".
4. Incorrect, it is the competency of the Administrative Department to post a suitable person for the said post.
5. Incorrect, hence denied, the order was issued under laws / rules as discussed earlier.
6. Incorrect. In the public interest it is not necessary for the Administrative Post to complete normal tenure, hence denied. Detailed reply is already given in Para ibid.
7. Incorrect, already explained in Para 3 of the grounds, hence denied.
8. Incorrect, already explained in Para 3 of the grounds, hence denied.
9. The respondents be allowed to raise further grounds during arguments.

In view of the above made submissions, it is therefore, most humbly prayed that this Hon'able Tribunal may very graciously be pleased to dismiss the appeal with cost in favour of the Respondents.



Secretary
Elementary & Secondary Education Department
(For Respondent No. 01 to 4)

BEFORE THE HON'BLE SERVICE TRIBUNAL PESHAWAR

Service appeal # 7869/2021

Said Muhammad (DDEO) North Waziristan Petitioner

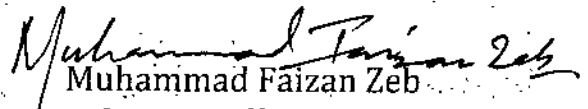
VERSUS

Govt. of Khyber Pakhtunkhwa & other Respondents

AFFIDAVIT

I, MUHAMMAD FAIZAN ZEB, 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 conceal from this Honorable Court.

DEPONENT


Muhammad Faizan Zeb
Section Officer (Lit-II)

IDENTIFIED BY


08/04/2022
ADDITIONAL ADVOCATE GENERAL,

KHYBER PAKHTUNAKHWA, PESHAWAR