

**BEFORE THE HONORABLE SERVICE TRIBUNAL,  
KHYBER PAKHTUNKHWA**

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

in

**Service Appeal No.1796 of 2023**

Muhammad Hamayun

Vs

Govt of KPK Etc

**INDEX**

| S.No. | Description of Documents   | Annexure | Page NO. |
|-------|--|----------|----------|
| 01    | CM with Affidavit  |          | 1-2      |
| 02    | Copy of cause list and cancellation notification dated: 21-09-2023 | R & R1   | 3-4      |
| 03    | Order sheet dated: _____   | R2       | 5-6      |
| 04    | Notification dated: 19-10-203                                      | R3       | 7        |

Dated: 25/10/2023

Appellant

Through Counsel



**Khalid Mehmood**

Advocate High Court D.I.Khan

*Peshawar*

*03.11.23*

①

**BEFORE THE HONORABLE SERVICE TRIBUNAL,  
KHYBER PAKHTUNKHWA**

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

in

**Service Appeal No.1796 of 2023**

Muhammad Hamayun

Vs

Govt of KPK Etc

**Khyber Pakhtunkhwa  
Service Tribunal**

Diary No. 8622

Dated 26-10-23

**APPLICATION WITH THE REQUEST TO SUSPEND THE OPERATION  
OF IMPUGNED NOTIFICATION NO. SO(MC)E&SED/4-16/2023 /  
POSTING/TRANSFER/SDEO (F) DIKHAN: DATED: 19-10-2023  
ISSUED BY RESPONDENT NO 2, TILL FINAL DECISION OF SERVICE  
APPEAL AND IN THE MEANWHILE STATUS QUO BE MAINTAINED.**

Respectfully Sheweth,

1. That a service appeal is pending before this Tribunal and fixed for 03-11-2023 at Principal seats Peshawar and grounds of same may please be considered as an integral part of the subject petition.
2. That the appellant transferred from SDEO paroa to Directorate and respondent No. 05 (Teaching cadre BPS-16) appointed as SDEO Paroa on OPS vide order dated 25-05-2023.
3. That the appellant filed departmental appeal on 05-06-2023 already annexed with service appeal.
4. That appellant also filed COC petition No.283/2023 before Peshawar High Court Peshawar because respondent No.2 violated the judgment of Peshawar High Court dated: 18-11-2009 in writ petition No.2937-P 2009, which was fixed on 22-09-2023 and meanwhile respondent No.2 in reference with COC, cancelled the ordered vide notification dated: 21-09-2023. Copy of cause list and cancellation notification dated: 21-09-2023 are annexed as R & R1.
5. That appellant has already filed service appeal on 11-09-2022 & Honourable Tribunal has suspended the impugned order dated: 25-05-2023 vide order sheet dated: \_\_\_\_\_, (Annexure R2) and sought comments from respondents.
6. That on 19-10-2023, respondent transferred the appellant from SDEO Paroa to SDEO Darazinda vide order dated: 19-10-2023, in utter violation of the order of Honourable Tribunal. (Annexure R3)

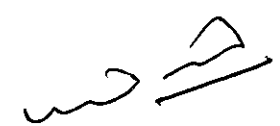
- 7. That the appellant has got a good prima facie case on law as well as on facts and there is every likelihood of the success of the service appeal. Hence balance of convenience tilts in favor of appellant.
- 8. That the impugned Notification dated: 19-10-2023 is violation of the Tribunal order and also on basis of nepotism and favoritism because the tenure of appellant has not been completed therefore in case of non-suspension of impugned Notification, the appellant will suffer an irreparable loss.

It is, therefore, humbly prayed that on acceptance of the present CM petition, the operation of impugned Notification dated 19-10-2023 may please be suspended and respondents may please be desisted from taking any action detrimental to the service career of appellant till decision of service appeal.

Yours Humble Appellant

Muhammad Hamayun  
Through Counsel

Dated: 25-10-2023

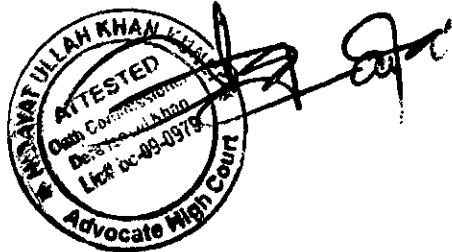
  
Khalid Mahmood,  
Advocate High Court

**AFFIDAVIT**

That all the contents of the above application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

  
Deponent

12101-8684087-1



3  
2

MR JUSTICE SYED ARSHAD ALI &  
MR JUSTICE WIDAR AHMAD

Court No 7

BEFORE

MOTION CASES

- |   |  |  |   |
|---|--|--|---|
| 1 | W.P 3521-P/2023<br>with IR(Fiscal-Sal<br>Tax)<br>(214891)  | State Life Insurance<br>Corporation of Pakistan<br>Vis<br>Govt of KP & others      | Waseem ud Din Khattak<br><hr/> Attaullah, Writ Petition Branch A<br>Office, Khalid Hayat  |
| 2 | W.P 3447-P/2023<br>With<br>CM.1756/23(M),(D<br>etention-3.M.P.O)<br>(214845)   | Qalat Khan and another<br>Vis<br>Secretary Home & Tribal Affairs<br>Govt of KP etc | Muhammad Mudassar<br>Khattak(Kohat)<br><hr/> Noor Wali Khan & Umar Nawaz<br>Writ Petition Branch AG Office,<br>Ibrar Ahmed (Focal Person IGP<br>Muhammad Arif Khan (DD) |
| 3 | CM Rest 197-<br>P/2023(in WP No.<br>4740/2022<br>(Dismissed by HJ<br>IV, V))(Writ<br>Petitions-CM<br>Restoration)<br>(210117)          | Zain ul Abideen<br>Vis<br>Govt of KP and others                                    | Faheem Ullah Akhunzada<br><hr/> Writ Petition Branch AG Office  |
| 4 | COC 283-<br>P/2023(in WP No.<br>2937/2009<br>(Against order of<br>H-Exjudges))(Writ<br>Petitions-<br>Contempt of<br>Court)<br>(211155) | Muhammad Hamayun<br>Vis<br>Motasim Billah Shah, Secretary<br>E&SE and others       | Khalid Mahmood (D.I.Khan)<br><hr/> Hidayatullah (Focal Person),<br>Muhammad Khalid Matten, Writ<br>Petition Branch AG Office  |
| 5 | CM Rest 308-<br>P/2023(In WP<br>2023/2022<br>(Dismissed by HJ<br>III,VI))(-)<br>(213373)   | Mst Sabiro<br>Vis<br>Govt of Pakistan  | Shah Saud Mashwani<br><hr/>   |

ATTESTED

KHALID MAHMOOD

KHALID MAHMOOD  
ADVOCATE HIGH COURT

TESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT  
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar  
Phone No. 091-9210626

Dated: 21<sup>st</sup> September, 2023

**NOTIFICATION**

**NO.SO(MC) E&SEDI/ 4-16 /2023/ Posting/ Transfer/ SDEO (F) D.I.Khan:** In light of Honorable Peshawar High Court Peshawar in COC No 283-P/2023 in Writ Petition No. 2937/2009 This department Notification of even number dated 26.05 2023 in respect of Muhammad Hamayun SDEO (M) Parova D.I.Khan is hereby withdrawn/ cancelled ab-initio

SECRETARY TO GOVT: OF KHYBER PAKHTUNKHWA  
E&SE DEPARTMENT

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

Copy forwarded for information to the: -

1. Registrar Peshawar High Court Peshawar.
2. Accountant General, Khyber Pakhtunkhwa, Peshawar.
3. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
4. Director EMIS, E&SE Department with the request to upload the same on the official website of the department.
5. Section Officer (Lit-III) E&SE Department.
6. District Education Officer (Male) D.I.Khan
7. District Accounts Officer D I.Khan
8. PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
9. Master file.

REQUESTED  
KHALID MEHMOOD  
Advocate High Court  
Stationed at D.I.Khan

KHALID MEHMOOD  
Advocate High Court  
Stationed at D.I.Khan

ATTESTED

(IMRAN ZAMAN)  
SECTION OFFICER (Management Cadre)

11/7/2023  
21.9.2023

4

Annex R1

FORM OF ORDER SHEET

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

Appeal No. 1796/2023

12

5



| S.No. | Date of order proceedings. | Order or other proceedings with signature of judge   |
|-------|----------------------------|--|
| 1     | 2                          |  |
| 1-    | 07/09/2023                 | The appeal of Mr. Muhammad Hamayun received today by registered post through Mr. Khalid Mahmood Advocate. It is fixed for preliminary hearing before touring Single Bench at D.I.Khan on 19/9/23 |

SCANNED  
KPST  
Peshawar

By the order of Chairman

*[Signature]*  
REGISTRAR

19.09.2023

1. Learned counsel for the appellant present and argued that vide impugned order dated 25.05.2023 appellant was prematurely transferred from the post of SDEO (M) Parora D.I.Khan and was placed as OSD. He further argued that private respondent No. 5 being from teaching cadre was posted in the place of appellant, in administrative cadre, which is against posting/transfer policy. Reliance is placed on the judgment of Worthy Peshawar Hon'ble Peshawar High Court, Peshawar in W.P No. 2937/2009. Appellant filed department appeal on 02.06.2023, which was not responded within statutory period of 90 days, therefore, he filed instant service appeal on 07.09.2023 under Section 4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974. Points raised need consideration, therefore, appeal is admitted for regular hearing subject to all legal objections. Appellant is directed to deposit security fee within 10 days. Thereafter, notices be issued to respondents for submission of

certified to be true copy

EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

66

written reply/comments. Respondents be summoned through TCS the expenses of which be deposited by the appellant within 3 days. Adjourned. To come up for written reply/comments on 27.09.2023 before S.B at principal seat Peshawar. P.P given to the appellant .

2. Alongwith the memorandum of appeal, there is an application for suspension of operation of operation of impugned notification dated 25.05.2023. Notice of this application be issued to the respondents. In the meanwhile, operation of impugned notification dated 25.05.2023 shall remain suspended, if not acted upon earlier.

Certified to be a true copy  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar  
26/10/23

(Rashida Bano)  
Member (J)  
Camp Court, D.I.Khan

\*KaleemUllah\*

Date of Presentation of Application 26/10/23  
Number of Words page 2  
Copying Fee 10/-  
Urgent 5/-  
Total 15/-  
Name of Copyist \_\_\_\_\_  
Date of Completion of \_\_\_\_\_ 26/10/23  
Date of Delivery of \_\_\_\_\_ 26/10/23



GOVERNMENT OF KHYBER PAKHTUNKHWA  
 ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT  
 Block-A Opposite MPA's Hotel, Civil Secretariat Peshawar  
 Phone No. 12210626

Dated 19 October 2023

(7)  
 Annex R2

**NOTIFICATION**

**NO.SO(MC)E&SED/4-16/2023/Posting/Transfer/SDEO/DIK** The following posting/transfer are hereby ordered as mentioned against each, with immediate effect in the best public interest

| Sr# | Name & Designation              | From                  | To                       | Remarks  |
|-----|---------------------------------|-----------------------|--------------------------|----------|
| 1   | Muhammad Rashid<br>TC BS-17     | SDEO (M)<br>Darazinda | HM GHS Sikandar<br>South | A V P    |
| 2   | Muhammad<br>Hamayun<br>MC BS-17 | SDEO Parova           | SDEO Darazinda           | V S No 1 |

SECRETARY TO GOVT: OF KHYBER PAKHTUNKHWA  
 E&SE DEPARTMENT

**Endst: 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) D.I.Khan
- 5 District Accounts Officers D.I.Khan.
- 6 PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
- 7 Master file.

RECEIVED  
 19.10.2023

111 / 19.10.2023  
 SECTION OFFICER (Management Cadre)