

Sr. No	Date of order/proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
<p style="text-align: right;">28.08.2017</p>		<p style="text-align: center;"><b><u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u></b></p> <p style="text-align: center;">Service Appeal No. 69/2016</p> <p style="text-align: center;">Date of Institution ... 19.01.2016 Date of Decision ... 28.08.2017</p> <p>Mst. Talat Begum PSHT, GGPS, Kalo Banda, Tehsil Lahore, District Swabi-----<b>Appellant</b></p> <p style="text-align: center;">Versus</p> <p>1. The Government of Khyber Pakhtunkhwa through Secretary Elementary &amp; Secondary Education Civil Secretariat, Peshawar. 2. The Director Elementary &amp; Secondary Education Civil Secretariat, Peshawar. 3. The District Education Officer (Female) District Swabi.</p> <p style="text-align: right;"><b>Respondents</b></p> <p style="text-align: center;"><b><u>JUDGMENT</u></b></p> <p style="text-align: center;"><b><u>MUHAMMAD HAMID MUGHAL, MEMBER:</u></b> - Learned counsel for the appellant and Mr. Zia Ullah, Deputy District Attorney on behalf of the official respondent present.</p> <p>2. Aggrieved against her transfer/posting from District Swabi to District Swat, the appellant has filed the present appeal u/s 4 Khyber Pakhtunkhwa Service Act, 1974 against the respondents wherein she made impugned the orders dated 23/07/2015, 19.08.2015 and</p>

final order dated 02.02.2016.

3. Learned counsel for the appellant contended that the appellant was appointed as PST in District Swat in the year 1995; that husband of the appellant serving as Watchman Social Security institution Government of Khyber Pakhtunkhwa and is serving at District Swabi; that under the spouse policy the appellant applied to the competent authority and resultantly she was transferred to District Swabi vide order dated 14.03.2013. ;that vide adjustment order dated 21.11.2013 appellant was adjusted at GGPS Jalsey No. 3 Lahore District Swabi and subsequently she was transferred to GGPPS Kalo Banda District Swabi vide order dated 21.12.2013, however all of a sudden the transfer of appellant from District Swat to District Swabi was withdrawn vide order dated 23.07.2015 and the adjustment order of the appellant was also withdrawn vide order dated 19.08.2015 ;that the departmental representation of the appellant was also rejected vide order dated 02.02.2016 hence the appellant filed the present appeal. Further argued that the impugned orders are against the posting/transfer policy as well as against the spouse policy of the Provincial Government. Further argued that the constitution also protects family and family rights. Learned counsel for the appellant vehemently stressed for setting aside the impugned orders.

4. Learned Deputy District Attorney while opposing the present appeal argued that the services of appellant originally pertains to District Swat and she was also promoted to the post of PSHT

D.A.M.

(Primary School Head Teacher) on the strength of vacancy in District Swat. Hence the appellant was rightly posted back to her previous/original station of service after her promotion as PSHT.

5. Arguments heard. File perused.

6. Perusal of file would show that appellant was originally posted as PST GGPS uthror (Kalam) District Swat when her services were placed at the disposal of DEO (Female) Swabi for further adjustment against the vacant post of PST vide order dated 14.03.2013. similarly vide order dated 21.11.2013 the appellant was adjusted against the vacant PSHT B-15 at GGPS Jalsey No. 3 (Lahor) District Swabi. However vide impugned order dated 23.07.2015 the service disposal order in respect of appellant from GGPS uthror (Kalam) District Swat to District Swabi dated 14.03.2013 (mentioned above) was withdrawn and resultantly she was posted back to her previous/original station at GGPS uthror (Kalam) District Swabi.

7. As already noted above that service of appellant originally pertains to District Swat. The relevant part of the final impugned order dated 02.02.2006 is reproduced as under

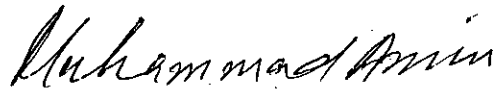
*“You were promoted from SPST BPS-14 to the post of PSHT BPS-15 in District Swat. As per existing rules PSHT post is required to be filled 100% by promotion from SPST of the concerned District, it cannot be filled by transfer or initial recruitment. The Departmental appeal is worthless and inadequate having no*

*credence of acceptance under the Law, Rules & existing policy of the Government. Hence your appeal is not maintainable & not acceptable under the Rules & Rejected.*

8. The above mentioned part of the impugned order is self contained and need no explanation/interpretation. The appellant has been promoted to the post of PSHT in District Swat however neither she refused her promotion as PSHT and preferred to remain as PST in District Swabi nor the appellant is willing to perform as PSHT in District Swat. Consequently the impugned orders are not open to any exceptions. The present appeal being devoid of any substance is hereby dismissed. The appellant or her husband may apply for posting at one station before the competent forums under the relevant rules/policy, subject to just exceptions, if so advised. Parties are left to bear their own costs. File be consigned to the record room after its completion.



(MUHAMMAD HAMID MUGHAL)  
MEMBER



(MUHAMMAD AMIN KHAN KUND)  
MEMBER

ANNOUNCED  
28.08.2017

28.08.2017

Counsel for the appellant present. Learned Deputy District Attorney for the respondent present. Vide separate judgment of today of this Tribunal placed on file, The present appeal being devoid of any substance is hereby dismissed. The appellant or her husband may apply for posting at one station before the competent forums under the relevant rules/policy, subject to just exceptions, if so advised. Parties are left to bear their own costs. File be consigned to the record room after its completion.

**ANNOUNCED**  
28.08.2017


*Muhammad Amin Khan Kundi*  
(Muhammad Amin Khan Kundi)  
Member


*Muhammad Hamid Mughal*  
(Muhammad Hamid Mughal)  
Member

Service Appeal No. 69/2016

09.08.2017

Clerk of the counsel for appellant present. Mr. Ziaullah, Deputy District Attorney for the respondents present. Clerk of the counsel for appellant seeks adjournment on the ground that learned counsel for the appellant is not available today. Adjourned. To come up for arguments on 10.08.2017 before D.B.

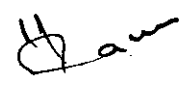
  
(Muhammad Amin Khan Kundi)  
Member (J)

  
(Muhammad Hamid Mughal)  
Member (J)

10.08.2017

Counsel for the appellant present. Mr. Ziaullah, Deputy District Attorney for the respondents present. Arguments heard. To come up for order on 28.08.2017.

  
(Muhammad Amin Khan Kundi)  
Member (J)

  
(Muhammad Hamid Mughal)  
Member (J)

28.08.2017

~~Counsel for the appellant present. Learned Deputy District Attorney for the respondent present. Vide separate judgment of today of this Tribunal placed on file, the appellant or her husband may apply for posting at one station before the competent forums under the relevant rules/policy, subject to just exceptions, if so advised. Parties are left to bear their own costs. File be consigned to the record room after its completion.~~

**ANNOUNCED**  
**28.08.2017**


(Muhammad Amin Khan Kundi)  
Member

(Muhammad Hamid Mughal)  
Member

12.04.2017

Clerk of the counsel for appellant present. Mr. Muhammad Adeel Butt, Additional AG for the respondents also present. Clerk of the counsel for appellant requested for adjournment on the ground that counsel for the appellant is busy in the Hon'ble Peshawar High Court, Peshawar. Last chance is given to counsel for the appellant for arguments. To come up for arguments on 15.05.2017 before D.B. The restraint order shall continue.

  
(Ahmad Hassan)  
Member

  
(Muhammad Amin Khan Kundi)  
Member

15.05.2017

Clerk of the counsel for appellant and Mr. Jamshid Khan, Litigation Officer alongwith Mr. Kabirullah Khattak, Assistant AG for the respondents present. Clerk of the counsel for appellant requested for adjournment. Adjourned for arguments to 15.06.2017 before D.B. The restraint order shall continue.

  
(GUL ZEB KHAN)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

15.06.2017

Counsel for the appellant present. Mr. Hameed-ur-Rehman, AD (Litigation) alongwith Mr. Ziaullah, Deputy District Attorney for the respondents also present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 14.07.2017 before D.B. The restraint order shall continue.

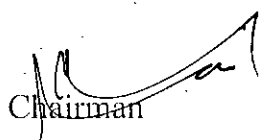
  
(GUL ZEB KHAN)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

14.07.2017

Counsel for the appellant and Asstt. AT alongwith Jamshed Khan, ADO for the respondents present. Counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 09.08.2017 before the D.B. In the meanwhile the restraint order shall continue.

  
Member

  
Chairman

29.12.2016

Clerk to counsel for the appellant and Mr. Jamshed Khan, Supdt. alongwith Addl. AG for respondents present. Arguments could not be heard due to incomplete bench. Case adjourned to 08.02.2017 for arguments before D.B. The restrain order shall continue.

  
Chairman

08.02.2017

Clerk counsel for appellant, M/S Khurshid Khan, SO, Hameed-ur-Rehman, AD (lit.) and Jamshed Khan, Superintendent alongwith Mr. Muhammad Jan, GP for respondents present. Clerk counsel for appellant requested for adjournment due to non-availability of learned counsel for appellant today before the Tribunal. Adjourned. To come up for arguments on 09.03.2017 before D.B. The restraint order shall continue.

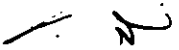
  
(ASHFAQUE TAJ)  
MEMBER

  
(MUHAMMAD AAMIR NAZIR)  
MEMBER

09.03.2017

Clerk to counsel for the appellant and Mr. Muhammad Jan, GP for respondents present. Clerk to counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on 12.04.2017 before D.B. the restraint order shall continue.

  
(MUHAMMAD AAMIR NAZIR )  
MEMBER

  
(ASHFAQUE TAJ)  
MEMBER



not deprive the appellant from seeking his remedy through the service appeal already instituted by her. In such circumstances we are inclined to accept the application and allow the appellant to impugn the said order of the departmental authority by amending the appeal. Orders accordingly.

The appellant has already submitted amended memo, of appeal. To come up for reply of the and arguments on main appeal on 17.10.2016 before the D.B. The restraint order shall continue.

17.10.2016

Counsel for the appellant, M/S Hameed-ur-Rehman, ~~Chairman~~ and Jamshid Khan, Superintendent alongwith Mr. Ziaullah, GP for respondents present. Learned GP submitted that respondent-department relies on his earlier written reply on the main appeal and does not want to submit any other reply. Last opportunity granted to both the parties for arguments for 18-11-16 before D.B. The restraint order shall continue.

(ABDUL LATIF)  
MEMBER

(PIR BAKHSH SHAH)  
MEMBER

18.11.2016

Agent to counsel for the appellant and Mr. Jamshed Khan, Supdt. alongwith Mr. Ziaullah, GP for respondents present. ~~Agent to~~ counsel for the appellant is stated to have gone to Dar ul Qaza. Requested for adjournment. Request accepted. To come up for arguments on 29.12.2016 before D.B. The restrain order shall continue.

Member

Chairman

69/16

31.08.2016

Counsel for the appellant and Mr. Jamshaid, Superintendent alongwith Sr.GP for the respondents present. Arguments on application for amendment in appeal heard and record perused.

Brief facts of the case of the appellant are that vide impugned original order dated 23.07.2015 appellant was transferred where-against she preferred departmental appeal which was not responded within the statutory period of 90 days constraining the appellant to prefer service appeal. During the pendency of the service appeal departmental appeal was rejected vide order dated 02.02.2016.

Learned counsel for the appellant argued that the appellant intends to impugn the said final order by way of amending the appeal as the same was passed after the <sup>11-11-2015</sup> institution of the instant service appeal while learned Senior Government Pleader argued that the appellant is to withdraw the instant service appeal which has become infructuous and, that in such eventuality appellant is to file fresh service appeal.

We have heard arguments of learned counsel for the parties and perused the record.

The appellant has preferred the instant service appeal after the lapse of statutory period of 90 days of submission of her departmental appeal. The appellate authority was obliged to have decided the departmental appeal of the appellant within the stated statutory period. Failure on the part of respondents-appellate authority to decide departmental appeal within specified time would



69/16

31.03.2016

Counsel for the appellant and Mr. Jamshed Ahmad, Supdt. alongwith Addl. A.G for the respondents present. Written reply submitted. The appeal is assigned to D.B for rejoinder and final hearing for 02.05.2016. Status quo be maintained.

  
Chairman

02.05.2016

Clerk to counsel for the appellant, M/S Hameed-Ur-Rehman, AD (Lit) and Jamshaid, Supdt alongwith Addl:AG for respondents present. Clerk to counsel for the appellant requested for time to file rejoinder. To come up for rejoinder and final hearing on 03.06.2016. Status-quo be maintained.

  
Member

  
Member

03.06.2016

Counsel for the appellant and Mr. Jamshid Khan, Supdt. alongwith Mr. Muhammad Jan, GP for respondents present. Learned counsel for the appellant submitted rejoinder as well as application for amendment which is placed on file and copy of the same also handed over to learned GP. To come up for reply to application and arguments on main appeal on ~~26-7-16~~. Status-quo be maintained.

  
MEMBER

  
MEMBER


28.1.2016

Counsel for the appellant present. Learned counsel for the appellant argued that the appellant was earlier serving at District Swabi and on the basis of spouse policy transferred to District Swabi from District Swat vide office order dated 14.3.2013. That the appellant was serving at District Swabi when vide impugned order dated 23.7.2015 the transfer order dated 14.3.2013 referred to above was withdrawn where-against appellant preferred departmental appeal on 2.10.2015 which was not responded and hence the instant service appeal on 19.1.2016.

Appellant Deposited  
Security & Process Fee

That the appellant was transferred from District Swat to District Swabi on the basis of approved government policy including spouse policy and cancellation of the said transfer order after lapse of about one and half years without any cogent reasons is violative of law and not tenable. That the appellant has not relinquished the charge.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 25.2.2016 before S.B. Notice of stay application be also issued for the date fixed. Status-quo be maintained.

  
Chairman

25.02.2016

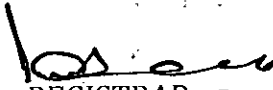

Counsel for the appellant, M/S Javed Ahmed, Supdt. and Jamshid Ahmed, Supdt. alongwith Addl: A.G for respondents present. Requested for adjournment. To come up for written reply/comments on 31.3.2016 before S.B. Status-quo be maintained.

  
Member

Form- A  
FORM OF ORDER SHEET

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

Case No. 69 /2016

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	19.01.2016	<p>The appeal of Mst. Talat Begum presented today by Mr. Khaled Rehman 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>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>28-1-16</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Amended Service Appeal No. 69 /2016

Mst. Talat Begum..... Appellant

Versus

The Govt. of KPK and others.....Respondents

**AMENDED INDEX**

S.No.	Description of Documents	Date	Annexure	Pages
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3.	Service Card and Affidavit		A	6-7
4.	Transfer order	14.03.2013	B	0-8
5.	Guidance letter	25.03.2013	C	0-9
6.	Reply to Guidance letter	13.06.2013	D	0-10
7.	Adjustment order	21.11.2013	E	0-11
8.	Transfer order	21.12.2013	F	0-12
9.	Verification letter	25.10.2013	G	0-13
10.	LPC		H	0-14
11.	Impugned order of withdrawal	23.07.2015	I	0-15
12.	Impugned withdrawal of adjustment	19.08.2015	J	0-16
13.	Departmental Representation	02.10.2015	K	17-19
14.	Comments		L	0-20
15.	Impugned appellate order	02.02.2016	L/2	0-20A
16.	Posting/Transfer Policy		M	21-23
17.	Wakalat Nama			

Through

Appellant

**Khaled Rahman**

Advocate,

Supreme Court of Pakistan

3-D, Haroon Mansion

Khyber Bazar, Peshawar

Off: Tel: 091-2592458

Cell # 0345-9337312

Dated: 03/06/2016

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Amended Service Appeal No. 69 /2016**

**Mst. Talat Begum.**

PSHT, GGPS, Kalo Banda,

Tehsil Lahore, District Swabi .....Appellant

Versus

1. **The Govt. of Khyber Pakhtunkhwa**  
through Secretary Elementary & Secondary Education  
Civil Secretariat, Peshawar.
2. **The Director,**  
Elementary & Secondary Education,  
Khyber Pakhtunkhwa, Peshawar.
3. **The District Education Officer (Female)**  
District Swabi.....Respondents

**AMENDED SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDERS DATED 23.07.2015, 19.08.2015 COMMUNICATED ON 09.09.2015 AGAINST WHICH THE APPELLANT PREFERRED A DEPARTMENTAL REPRESENTATION WHICH WAS REJECTED VIDE IMPUGNED APPELLATE ORDER DATED 02.02.2016.**

**PRAYER:**

On acceptance of the instant appeal, the impugned orders dated 23.07.2015 and 19.08.2015 communicated on 09.09.2015 and appellate order dated 02.02.2016, may graciously be set aside by allowing the appellant to remain posted at GGPS Kalo Banda, District Swabi.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. That the appellant was appointed as PST in District Swat in the year 1995. She was upgraded to BPS-15 on 27.02.2013. Her husband namely Muhammad Sahib is serving as Watchman Social Security



Institution, Government of Khyber Pakhtunkhwa. (Service Card and Affidavit of the Appellant *Annex:-A*).

2. That since both the spouses were Govt. servants but posted at far-flung areas, therefore, under the Spouse Policy they applied to the competent authority and accordingly the competent authority was pleased to transfer the appellant to District Swabi vide order dated 14.03.2013 (*Annex:-B*).
3. That after such transfer, Respondent No.3 sought guidance from Respondent No.2 for adjustment of the appellant vide letter dated 25.03.2013 (*Annex:-C*), who provided the same vide letter dated 13.06.2013 (*Annex:-D*) and thus vide adjustment order dated 21.11.2013 (*Annex:-E*) appellant was adjusted at GGPS Jalsey No.3 Lahore, District Swabi. Subsequently, she was transferred to GGPS Kalo Banda, Lahore, District Swabi vide order dated 21.12.2013 (*Annex:-F*).
4. That pursuant to the transfer order, the Respondent No.3 vide letter dated 25.10.2013 (*Annex:-G*) requested the District Education Officer (Female) Swat for verification of the promotion order of the appellant which was verified. (LPC of the appellant *Annex:-H*).
5. That after the transfer of the appellant to district Swabi, she performed her duties regularly and received salaries. Vide impugned order dated 23.07.2015 (*Annex:-I*) the transfer of the appellant was all of sudden withdrawn after two and half years without any reasons. The Respondent No.3 pursuant to the order *ibid*, also withdrew the adjustment order of the appellant vide impugned order dated 19.08.2015 (*Annex:-J*) which was communicated to the appellant on 09.09.2015.

6. That appellant preferred a departmental Representation (*Annex:-K*) against the impugned orders upon which Respondent No.3 submitted her comments (*Annex:-L*) but the same was subsequently rejected vide impugned appellate order dated 02.02.2016 (*Annex:-L/2*) not disposed of within the statutory period of 90 days, hence this appeal inter-alia on the following grounds:-

**Grounds:**

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned orders, which are unjust, unfair and hence not sustainable in the eye of law.
- B. That the impugned orders are against the Posting/Transfer Policy (*Annex:-M*) issued by the Provincial Government.
- C. That the Spouse Policy was also violated by issuing the impugned orders. Moreover, the cited Judgment referred in the appellate order is also not attracted to the case in hand.
- D. That the transfer order of the appellant was implemented, carried into effect and the same now cannot be canceled under the principle of locus poenitentiae.
- E. That the Constitution protects the family and family rights.
- F. That the impugned orders are against the Judgments of the superior fora.

G. That appellant would like to offer some other grounds during the course of arguments.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

Through

Appellant

  
Khaled Rahman,

Advocate,

Supreme Court of Pakistan

Dated: 03/06/2016

20A

50

L/R

REGISTERED. 1

DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION, KHYBER PAKHTUNKHWA PESHAWARI

AT GOVT: HIGHER SECONDARY SCHOOLS NO. 1 PESHAWAR CITY G.T ROAD PESHAWAR CITY.

DF  
[Handwritten signature]

PHONE No. 091-9210389/ 091-9210468,  
091- 9210938/091-9210957  
FAX NO.9210936, 091-9211773

No. \_\_\_\_\_ /AD (Litigation-1)  
Dated Peshawar the 02/02 /2016.

To

- 1. Mst: Talat Begum, PSHT,  
Government Girls Primary School Uthror,(kalam)  
District SWAT.

Subject: -

DEPARTMENTAL APPEAL IN RESPECT OF  
MST: TALAT BEGUM PSHT GOVERNMENT  
GIRLS PRIMARY SCHOOL UTHROR (KALAM)  
DISTRICT SWAT.

Memo:

In pursuance to your Departmental Appeal dated 02/10/2015 regarding the cancellation/ with drawl of transfer order from District Swat to District Swabi. You are hereby informed that the competent authority has been thoroughly examined/scrutinized your appeal & it was observed that the said cancellation/withdrawal order was passed in light of Hon,able Peshawar High Court Peshawar judgment dated 07/04/2015 in writ petition No.2237-P/2014, titled Mst:Nadia Versus Government of Khyber Pakhtunkhwa & Others.

And wherein,

You were promoted from SPST BPS-14 to the post of PSHT BPS-15 in District Swat. As per existing rules PSHT post is required to be filled 100% by promotion from SPST of the concerned District, it cannot filled by transfer or initial recruitment. The Departmental appeal is worthless and inadequate having no credence of acceptance under the Law , Rules & existing policy of the Government . Hence your appeal is not maintainable & not acceptable under the Rules & Rejected.

SUB  
12/2/16

Sd/-  
Deputy Directress (Establishment)  
Elementary & Secondary Education,  
Khyber Pakhtunkhwa, Peshawar.

486-92

Endst;No. \_\_\_\_\_ /  
Copy forwarded to the:-

Dated Peshawar the \_\_\_\_\_ /16

- 1. Additional Registrar, Peshawar High Court Peshawar.
- 2. Additional Advocate General, Peshawar High Court Peshawar..
- 3. District Education Officer (Female)- Swabi for immediate n/action.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 69/2016

Mst. Talat Begum .....Applicant/Appellant

Versus

The Govt. of KPK and others.....Respondents

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**Application for amendment of the titled Service Appeal to the extent of challenging the appellate order dated 02.02.2016.**

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Respectfully Sheweth,

1. That the titled Service Appeal is pending before the Hon'ble Tribunal fixed for today.
2. That on the previous date of hearing the Respondents have filed the reply to the main appeal wherewith they annexed the appellate order dated 02.02.2016 whereby the departmental appeal of the appellant has been reportedly rejected.
3. That the appellate order *ibid*, needs to be challenged in the instant appeal, therefore, permission to that extent is needed to properly challenge the same in accordance with law. (Amended Appeal alongwith Amended Index is attached)
4. That the amendment so sought will not change the nature of the case.

It is, therefore, humbly prayed that the amended as mentioned hereinabove may graciously be allowed.

  
Applicant/Appellant

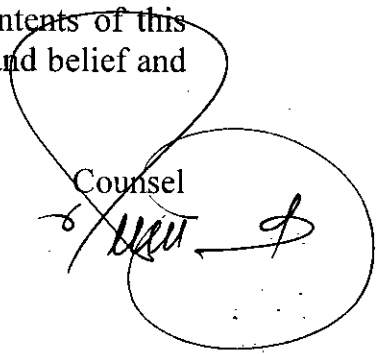
Through

**Khaled Rahman**  
Advocate,  
Supreme Court of Pakistan

**Dated: 03/06/2016**

**Verification**

Verified, as per instructions of my client, that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

  
Counsel

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 69 /2016

Mst. Talat Begum..... Appellant

Versus

The Govt. of KPK and others..... Respondents

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Through

Appellant

*Talat*  
**Khaled Rahman**  
 Advocate  
 Supreme Court of Pakistan  
 3-D, Haroon Mansion  
 Khyber Bazar, Peshawar  
 Off: Tel: 091-2592458  
 Cell # 0345-9337312

Dated: \_\_\_/01/2016

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

Service Appeal No. 69 /2016

**Mst. Talat Begum.**

PSHT, GGPS, Kalo Banda,

Tehsil Lahore, District Swabi .....Appellant

Versus

1. **The Govt. of Khyber Pakhtunkhwa**  
through Secretary Elementary & Secondary Education  
Civil Secretariat, Peshawar.

2. **The Director,**  
Elementary & Secondary Education,  
Khyber Pakhtunkhwa, Peshawar.

3. **The District Education Officer (Female)**  
District Swabi.....Respondents

K.W.P. Province  
Service Tribunal  
Slary No. 50  
dated 19-1-2016

**SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDERS DATED 23.07.2015, 19.08.2015 COMMUNICATED ON 09.09.2015 AGAINST WHICH THE APPELLANT PREFERRED A DEPARTMENTAL REPRESENTATION BUT THE SAME WAS NOT DISPOSED OF WITHIN THE STATUTORY PERIOD OF 90 DAYS.**

**PRAYER:**

On acceptance of the instant appeal, the impugned orders dated 23.07.2015 and 19.08.2015 communicated on 09.09.2015 may graciously be set aside by allowing the appellant to remain posted at GGPS Kalo Banda, District Swabi.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. That the appellant was appointed as PST in District Swat in the year 1995. She was upgraded to BPS-15 on 27.02.2013. Her husband namely Muhammad Sahib is serving as Watchman Social Security

Institution, Government of Khyber Pakhtunkhwa. (Service Card and Affidavit of the Appellant *Annex:-A*).

2. That since both the spouses were Govt. servants but posted at far-flung areas, therefore, under the Spouse Policy they applied to the competent authority and accordingly the competent authority was pleased to transfer the appellant to District Swabi vide order dated 14.03.2013 (*Annex:-B*).
3. That after such transfer, Respondent No.3 sought guidance from Respondent No.2 for adjustment of the appellant vide letter dated 25.03.2013 (*Annex:-C*), who provided the same vide letter dated 13.06.2013 (*Annex:-D*) and thus vide adjustment order dated 21.11.2013 (*Annex:-E*) appellant was adjusted at GGPS Jalsey No.3 Lahore, District Swabi. Subsequently, she was transferred to GGPS Kalo Banda, Lahore, District Swabi vide order dated 21.12.2013 (*Annex:-F*).
4. That pursuant to the transfer order, the Respondent No.3 vide letter dated 25.10.2013 (*Annex:-G*) requested the District Education Officer (Female) Swat for verification of the promotion order of the appellant which was verified. (LPC of the appellant *Annex:-H*).
5. That after the transfer of the appellant to district Swabi, she performed her duties regularly and received salaries. Vide impugned order dated 23.07.2015 (*Annex:-I*) the transfer of the appellant was all of sudden withdrawn after two and half years without any reasons. The Respondent No.3 pursuant to the order *ibid*, also withdrew the adjustment order of the appellant vide impugned order dated 19.08.2015 (*Annex:-J*) which was communicated to the appellant on 09.09.2015.



6. That appellant preferred a departmental Representation (*Annex:-K*) against the impugned orders upon which Respondent No.3 submitted her comments (*Annex:-L*) but the same was not disposed of within the statutory period of 90 days, hence this appeal inter-alia on the following grounds:-

**Grounds:**

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned orders, which are unjust, unfair and hence not sustainable in the eye of law.
- B. That the impugned order is against the Posting/Transfer Policy (*Annex:-M*) issued by the Provincial Government.
- C. That the Spouse Policy was also violated by issuing the impugned orders.
- D. That the transfer order of the appellant was implemented, carried into effect and the same now cannot be canceled under the principle of *locus poenitentiae*.
- E. That the Constitution protects the family and family rights.
- F. That the impugned orders are against the Judgments of the superior fora.
- G. That appellant would like to offer some other grounds during the course of arguments.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.



**Appellant**

**Through**

**Khaled Rahman,**  
**Advocate,**  
**Supreme Court of Pakistan**

**Dated: \_\_\_/\_\_\_/2016**

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR****Service Appeal No. \_\_\_\_\_/2016**

Mst. Talat Begum.....Applicant

Versus

The Govt. of KPK and others.....Respondents

---

**Application for suspending the operation of the impugned orders dated 23.07.2015 and 19.08.2015 till the final disposal of the instant appeal.**

---

Respectfully Sheweth,

1. That the above titled service appeal is being filed today which is yet to be fixed for hearing.
2. That the facts alleged and grounds taken in the body of main appeal may kindly be taken as an integral part of this application, which make out an excellent prima facie case in favour of applicant/ appellent.
3. That the balance of convenience also lies in favour of applicant/appellant and in case the impugned orders are not suspended the applicant/appellant will suffer irreparable loss.

It is, therefore, humbly prayed that on acceptance of this application, the operation of the impugned orders dated 23.07.2015 and 19.08.2015 may graciously be suspended till the final disposal of the main appeal.

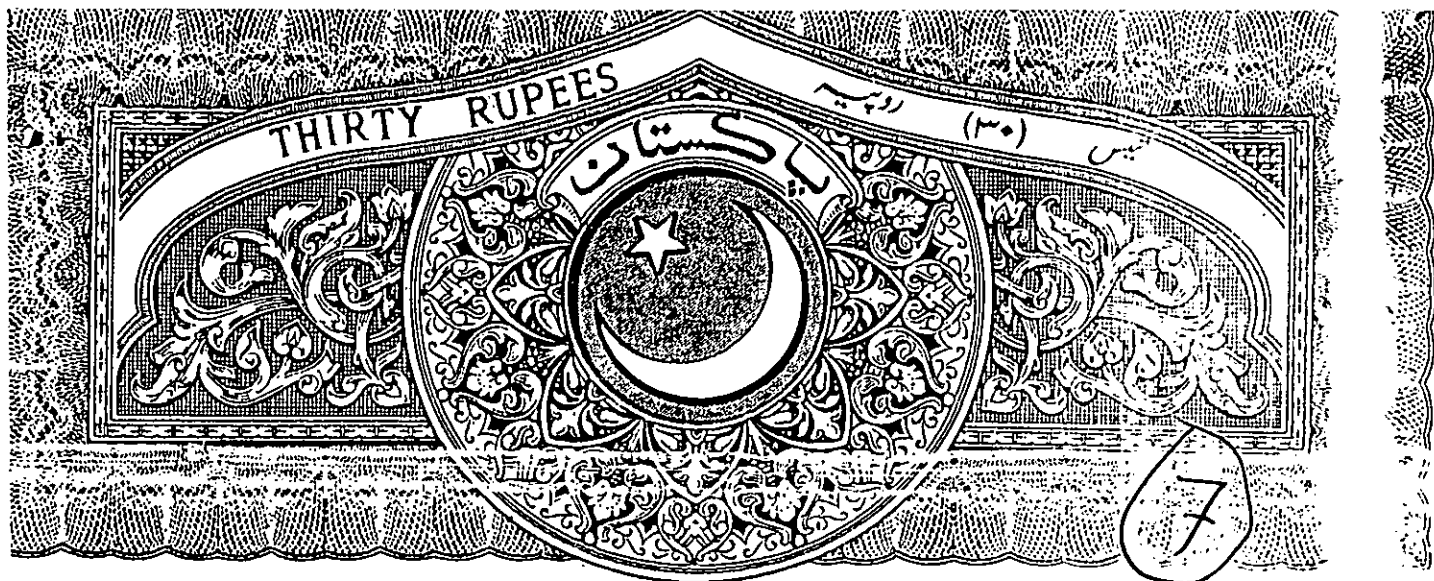
Through **Applicant**

**Khaled Rahman,**  
Advocate,  
*Supreme Court of Pakistan*

**Dated: \_\_\_\_/01/2016**Verification

Verified that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

*Talat*  
Applicant/Appellant



## AFFIDAVIT

I, **Mrs. Talat Begum** D/o Abdul Ghafar R/O Mohallah Land'kas, Minge Tehsil & District Swat, KPK, Pakistan, do here by solemnly affirm and declare under.

- That I have been married to **Mr. Muhammad Sahib** S/O Yaqoot R Mohallah B H U Ismailia, Tehsil & District Swabi, KPK, Pakistan according to Shariah Mohammadi on 27/07/2011.

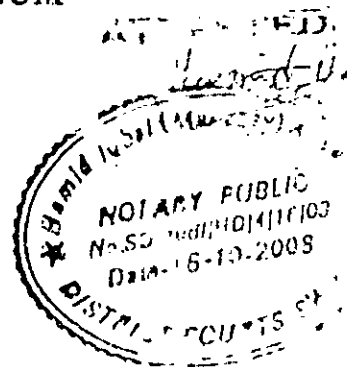
Whatever stated above is true and correct to the best of my knowledge belief and that nothing has been kept concealed therefrom.

DEPONENT

  
Mrs. **TALAT BEGUM**

NIC No. 15602-0365273-0

Attested to be  
True Copy



3469

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DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION KHYBER  
PAKHTUNKHWA, PESHAWAR.

Annex "B"

OFFICE ORDER.

Consequent upon approval by the competent authority, the services of Mst. **Talbat Begum** PST GGPS Uthror (Kalam) Distt Swat is hereby palced at the disposal of DEO (F) **Swabi** for further adjustment against the vacant post of PST on her own pay & BPS in the interest of public service with immediate effect.

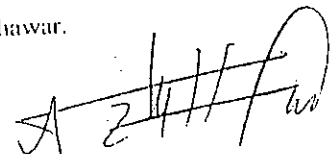
1. Charge report should be submitted to all concerned.
2. No TA/DA etc are allowed.
3. The DEO concerned is directed to check her original service documents before making payment of salary.
4. Her Seniority will be determined as per rules/policy.

DIRECTOR  
ELEMENTARY & SECY, EDUCATION  
KHYBER PAKHTUNKHWA

3499-3504  
Distt No \_\_\_\_\_ /F.No.167/Vol-II/Gen Transfer (F) 2013 Dated Pesh: the 17/2/2013

Copy of the above is to the:-

1. District Education Officer (F) Swat & Swabi.
2. District Accounts Officers Swat & Swabi.
3. Deputy Distt: Officer (F) concerned.
4. Teacher concerned.
5. PA to Director (E&SE) Khyber Pakhtunkhwa, Peshawar.
6. M.F. File.

  
Deputy Directress (Estab)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa, Peshawar

Attested to be  
True Copy



OFFICE OF THE DISTRICT EDUCATION OFFICER  
(FEMALE) SWABI

NO 449 DATED 25-3-2013

To,

The Director  
Elementary & Secy: Education  
Khyber Pakhtunkhwa Peshawar.

Annex "C"

(9)

SUBJECT:-


GUIDANCE.

Memo

Reference your Office Endst No. 3499-3504/F No. 167/Vol: II/Gen: transfer  
(F) 2013 dated 14-3-2013.

It is submitted for your kind information that P.S.T posts have been  
advertised for appointment, but due to court case the appointment cannot be made.

It is therefore requested that the undersigned may very kindly be guided  
that at this stage Mst: Talat Begum, PST GGPS Uthror (Kalam) District Swat can be adjusted in  
District Swabi or otherwise.

  
DISTRICT EDUCATION OFFICER  
(FEMALE) SWABI

Attested to be  
True Copy

DIRECTORATE OF ELEMENTARY &  
SECONDARY EDUCATION KHYBER  
PAKHTUNKHWA PESHAWAR

NO. 584 /F.No.167/Vol-II/Gen. Transfer

DATED PESHAWAR THE: 13/6 /2013.

To

✓  
The District Education Officer (F)  
Swabi

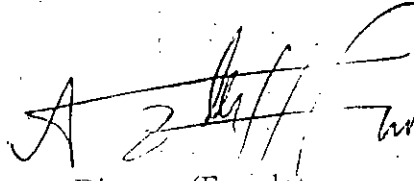
Annex "D"

(10)

Subject:- Guidance

Memo:-


I am directed to refer to your letter No.449 dated 25/03/2013 on the subject cited above and to state that the teacher concerned may be adjusted against the vacant post of PST and when the appointment process completed in District Swabi.

  
Deputy Director (Female)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar

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

Copy for information to the:-

1. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.

  
Deputy Director (Female)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar

Attested to be  
True Copy

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OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) SWABI

Adjustment:-

Consequent upon the approval of competent authority and placed at the disposal of the undersigned vide Director of Elementary and Secondary Education Endst:No.3495 /F.No.167/Vol-II/Gen: Transfer (F) 2013 dated Peshawar the 14-3-2013 Mst:1 Regur G.G.P.S.Uthror (Kalam) District Swat is hereby adjusted against vacant PSHT-11 Post G.G.P.S Jalsai No.3 (Lahor) on her own pay and BPS in the interest of public Service with immediate effect.

- Note:-
1. No TA/DA etc is allowed.
  2. Charge report should be submitted to all concerned.

(ABDUS SALAM  
DISTRICT EDUCATION OFFICER  
(FEMALE) SWABI

Endst:No. 2435-39 /Dated 21-11 /2013.

Copy of the above is forwarded to the:-

1. Director of Elementary and Secy education Khyber Pakhtunkhwa Peshawar
2. Deputy Commissioner Swabi.
3. District Accounts Officer Swabi.
4. S.D.E.O (F) Lahor.
5. Official Concerned.

  
DISTRICT EDUCATION OFFICER  
(FEMALE) SWABI

**Attested to be  
True Copy**

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OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) SWABI

TRANSFER ORDER:-

Mr. Talat Begum, PSHT B-15 G.G.P.S Jalsai (Lahor) is hereby transferred to G.G.P.S Kalo Banda (Lahor) against vacant post on his own pay and grade from the date of his taking over charge in the best interest of public service.

- Note: -
1. No TA/DA is allowed.
  2. Charge report should be submitted to all concerned.

(ABDUS SALAM)  
DISTRICT EDUCATION OFFICER  
(FEMALE) SWABI

Endst: No., 2781-9 /

Dated Swabi the 21-12 /2013

Copy forwarded for information to the:-

1. District Accounts Officer Swabi.
2. S.D.E.O (F) Lahor w/r to her proposal No.1501 dated 18-12-2013.
3. Official concerned.

*g/c*  
DISTRICT EDUCATION OFFICER  
(Female) SWABI

Attested to be  
True Copy

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OFFICE OF THE DISTRICT EDUCATION OFFICER  
(FEMALE) SWABI  
NO 2058 DATED 25/10/2013

*Annex B*

13

TO

The District Education Officer  
(Female) Swat.

SUBJECT:-

VERIFICATION OF PROMOTION ORDER PSHT B-15.

Memo:-

Enclosed please find herewith a copy of promotion order to PSHT-15 issued vide your Endst: No.569-74/Upgradation file/PST dated 27-02-2013 S.No.442/582 in respect of Mst:Talat Begum under transfer to District Swabi for verification and early return please.

Encl: - As above

*o/c*

*Mu*  
DISTRICT EDUCATION OFFICER  
(FEMALE) SWABI.

Attested to be  
True Copy

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LAST PAY CERTIFICATE

14

Last Pay Certificate of Talat Begum PSHT  
of the G.G.P.S. Uttra, Swat processing  
to Transfer to Swabi

2. He has been paid upto 30-04-2013 (CAN)  
as the following rates:—

Particulars:	0001 = Pay =	13400/-	BPS. 15
Substantive Pay:—	1000 = HRA	1566/-	
Officiating Pay:—	1210 = Comy All	2720/-	
Exchange Compensation Allowance:—	1300 = Med All	1000/-	
	1911 = CP All 2%	1000/-	
	1948 = AR 50%	3572/-	
	1970 = AR 15%	1072/-	
	2418 = AR 20%	2680/-	
	AR 15% (2013)		
	<u>Total</u>	<u>27010/-</u>	

Deductions:—

GPF = 1520/- IV Edu. No. / 14230/213  
 BF = 180/-  
 3. AOP made 137/- charge of the Office of  
 GI = 115/-  
 BPF = 100/-

on the 30/4/2013 A noon of 30/4/2013

4. Recoveries are to be made from the pay of the Government servant as detailed on the reverse.

5. He has been paid leave salary as detailed below. Deductions have been made as noted on reverse.

Period	Rate	at Rs.	a month.
From <u>20/12/12</u> to <u>30/4/13</u>		at Rs. <u>1000/-</u>	a month.
From <u>20/12/12</u> to <u>30/4/13</u>		at Rs. <u>1000/-</u>	a month.
From <u>20/12/12</u> to <u>30/4/13</u>		at Rs. <u>1000/-</u>	a month.

No 251/1058 dated 9/12/2013

- 6. He is entitled to draw the following: Copy to SDO of Swabi along with original 5/Book for 7 days
- 7. He is also entitled to join leave for 7 days
- 8. The details of the Income Tax recovered from him upto the date from the beginning of the current year are noted on the reverse.

Attested to be True Copy

Signature: [Signature]  
Designation: Sub Divt. Edu. Officer (F) Primary, Swat

Dated at.....19

Annex I

15/18

25

OFFICE OF THE DIRECTOR OF ELEMENTARY & SECONDARY  
EDUCATION KHYBER PAKHTUNKHWA, PESHAWAR

NOTIFICATION

The service disposal order in respect of Mst. Talat Begum, PST GGPS Uthror (Kalam) Swat to district Swabi issued vide this office notification Endst: No. 3499-3504/ F.No. 167/Voll-II/(F)/Gen Transfer Dated 14-3-2013 is hereby withdrawn.

Director  
Elementary & Secondary Education  
Khyber Pakhtunkhwa,

Endst: No. 4845-47 /F.No.W.P.No.2237/2014/Nadia Vs:Govt:Swabi/  
F No.95/ (F)/ G. Transfer/ dated Peshawar the 23/7 2015

Copy to the:-

- 1 District Account Officer Swabi & Swat
- 2 District Officer (Female) Swabi & Swat
- 3 Teacher Concerned.
- 4 P.A to Director Local Office

*S/C*  
Deputy Director (Female)  
(E&SE) Khyber Pakhtunkhwa,

*22/7/15*

Attested to be  
True Copy

*2 enclosed.  
on 9-9-2015  
Talat*

Annex 'J'

Pu P-5  
P-1

16

OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) SWABI

NOTIFICATION:-

Consequent upon the withdrawal Office Order No.3499-3504 F.No.167/Vol-II/Gen: Transfer (F) 2013 dated 14-3-2013 in respect of Mst: Talat Begum, PST GGPS Uthror (Kalam) District Swat vide Director E & S Edu: Khyber Pakhtunkhwa Peshawar Endst:No.4845-43/F.No.W.P.No.2237/2014/Nadia Vs: Govt: Swabi F.No.95 (F)/G Transfer dated 23/7/2015.

Hence the adjustment orders of the above named mistress issued vide this office Endst: No.3435-39 dated 21/11/2013 to GGPS Jalsai and transfer orders issued vide this office Endst: No.2781-G dated 21-12-2013 are hereby withdrawn.


(ULFAT BEGUM)  
DISTRICT EDUCATION OFFICER  
(FEMALE) SWABI

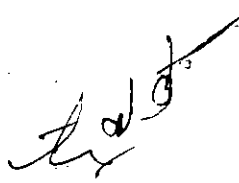
Endst: No., 2269

Dated Swabi the 19/8 2015.

Copy forwarded for information and n/action to the:-

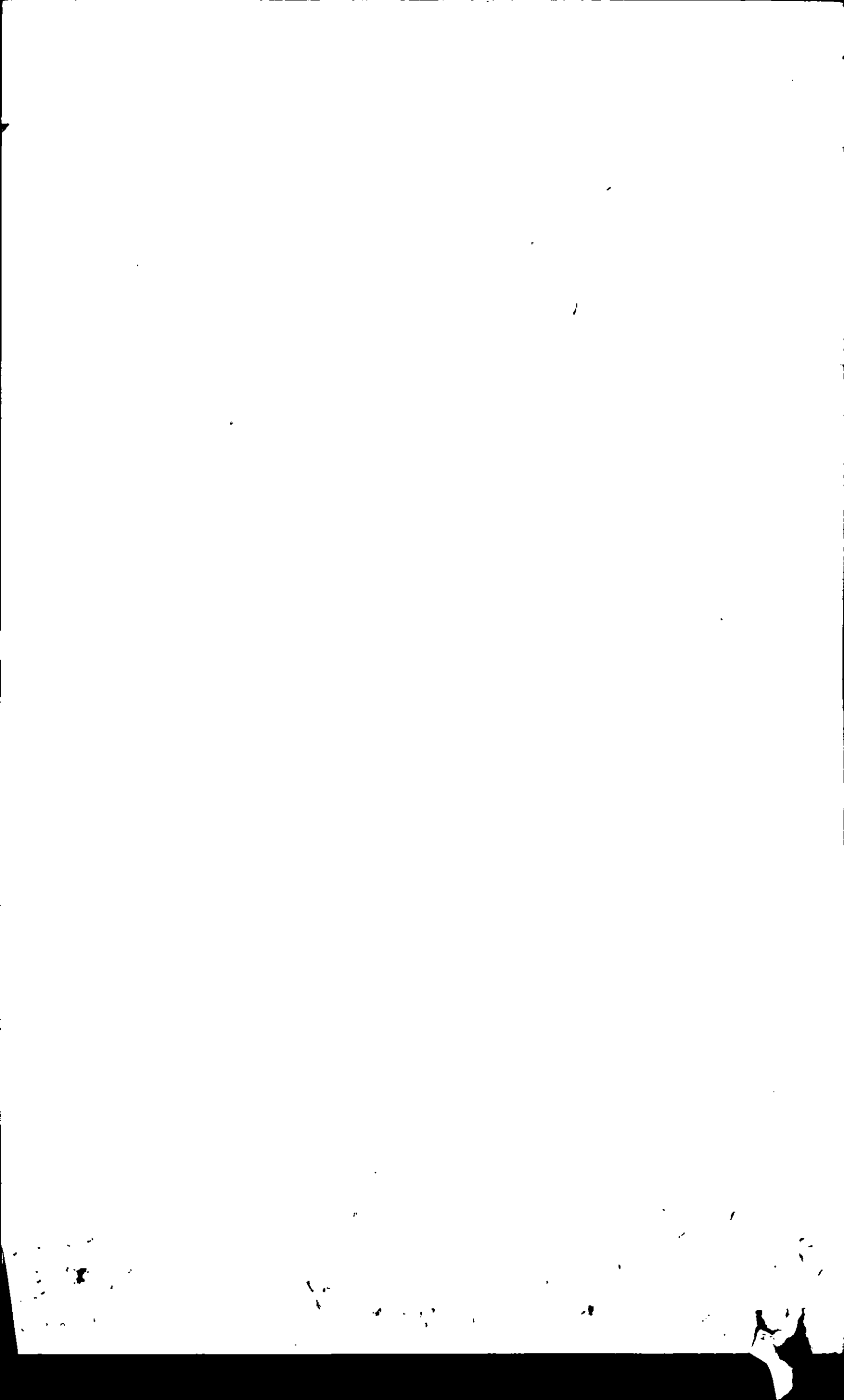
1. Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. District Accounts Officer Swabi.
3. S.D.E.O (F) Lahor with the remarks to inform the teacher concerned accordingly.

  
DISTRICT EDUCATION OFFICER  
(FEMALE) SWABI

Received.   
9-9-2015-

Attested to be  
True Copy

J



صائب ڈائریکٹر صاحب ریٹائرمنٹ کی انڈسٹریل ایسوسی ایشن آف پاکستان (IAPK) کے ذریعے

لغات کیسٹم PST بجری EPPS کا دوبارہ تکرار کرنے کے بارے میں  
Annex "K"

ڈائریکٹر ایجوکیشن سیکرٹری (F) لاہور - ریٹائرمنٹ

اپیل نمبر لاہور حکم نمبر 2249 جو 15/8/19  
ملکی رو سے اسد نے گورنر کے آرڈر کے تحت  
کی تبدیلی کے حکم کے بارے میں جو کہ صرف قواعد و ضوابط  
اور ان کے تحت جاری کیے ہوئے قابل بحالی ہے۔ قابل توجہ ہے جو کہ  
صائب نے 09/09/2015 کو گورنر کے پاس  
صائب کے ساتھ اسد نے اپیل عرض بردار ہے

اسد نے اسد نے اپیل کی شادی عمران گڑھاب حد درجہ سوشل سیکورٹی ایسوسی ایشن  
کے تحت جو فنڈ ریٹائرمنٹ کے تحت لاہور میں ہے اور اب عدالتوں  
اور دیگر محکمہ کے قواعد و ضوابط کے ساتھ ساتھ گورنر کے آرڈر کے تحت  
کے حکم کے تحت ریٹائرمنٹ کے تحت لاہور میں ہے اور اب عدالتوں  
کے قواعد میں بھی وقت باقی ہیں یہ فیصلہ عدالتوں کے  
اسد کے ساتھ ساتھ ریٹائرمنٹ کے تحت ہے

Attested to be True Copy  
3 سید محمد قاسم

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Handwritten notes in Urdu, including the word "Kala" and some illegible text.

Handwritten text in Urdu, possibly a signature or title, with a date "15/10".

Main body of handwritten text in Urdu, appearing to be a formal statement or report.

Handwritten text in Urdu, possibly a date or reference number.

Continuation of handwritten text in Urdu, detailing various points or observations.

Handwritten number "18" inside a circle.

Final lines of handwritten text in Urdu at the bottom of the page.







Annex "L"

**DISTRICT EDUCATION OFFICE (FEMALE) SWABI**

(Office phone Fax No 0938280339, [emisfswabi@yahoo.com](mailto:emisfswabi@yahoo.com))

Swabi No. 3601 Dated 23/12/2015

20

To,

The Director  
Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar.

Subject: -

**APPEAL FOR ADJUSTMENT/FACTUAL POSITION.**

Memo:

Please refer to the direction on the body of the appeal lodged by the husband of Mst: Talat Begum, Ex: PSHT GGPS Kalu Banda transferred/adjusted by the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar Endst: No.3499-3504/F.No167/Vol-II/Gen:Transfer (F) dated 14-3-2013 report is as under:-

1. Two vacant posts of PST at GGPS Kalu Banda shown by the SDEO (F) Lahor in the month of August-2012.
2. One of these vacant posts was upgraded to BPS-15 PHST on 18-6-2013 and filled up by the adjustment of one Miss Hidayat from GGPS Sikandari Tehsil Swabi, but she did not arrived/report for duty.
3. Then the vacant PSHT post was filled up by the transfer of Mst: Talat Begum PSHT from GGPS Jalsai No.3.
4. Now the Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa withdraw her service disposal order vide memo No. 4845 dated 23-7-2015 and this office also withdraw the adjustment order vide memo No. 2269 dated 19-8-2015 on court order with the direction to inform the concerned accordingly.
5. After withdrawal of her order her posting/service gone back to her previous station at GGPS Uthror Kalam District Swat.
6. According to rules transfer/adjustment/disposal from one District to another is the competency of Director Elementary & Secondary Education KP Peshawar.
7. A photo copy of her appeal with factual position is submitted herewith for information and taking further necessary action please.

DISTRICT EDUCATION OFFICER  
(FEMALE) SWABI

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True Copy

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Annex 'M'



21

# ESTA CODE

**ESTABLISHMENT CODE KHYBER PAKHTUNKHWA  
( REVISED EDITION ) 2011**

**A COMPENDIUM OF LAWS, RULES AND INSTRUCTIONS  
RELATING TO THE TERMS AND CONDITIONS  
OF PROVINCIAL CIVIL SERVANTS**

**COMPILED BY;  
(O&M) SECTION  
ESTABLISHMENT & ADMINISTRATION DEPARTMENT**

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**Posting/transfer from FATA and vice versa.**

I am directed to refer to the subject noted above and to state that the Centrally Administered Tribal Areas (Employees' Status) Order 1972 (President's Order No. 13 of 1972) provides that:

"Notwithstanding anything contained in their condition of service, the employees shall from the appointed day, be the employees of the Provincial government on deputation to the Federal Government and shall work under the overall administrative control of the Provincial government, on the same terms and conditions of service as respects remuneration, leave and pension and the same rights as respects disciplinary matters or tenure of office as were applicable to them immediately before that day; provided that the employees shall not be entitled to deputation allowance for their service after the appointed day".

2. According to the Posting/Transfer Policy of the Provincial Government, the Governor NWFP and the Chief Secretary NWFP are the competent authorities for posting/transfer of Civil Servants in BS-18 and above and up to BS-17 respectively. The policy prescribes two years normal tenure of posting in FATA. Similarly, it is obligatory for all the Provincial Government employees who have been selected against Zone-I/FATA Quota to compulsorily serve in FATA for at least eighteen months.

3. It is evident from the above that employees serving in FATA are under the administrative control of the Provincial Government. However, after establishment of FATA Secretariat, it was felt imperative to have linkage between the Provincial Departments and the FATA Secretariat so that public service delivery does not suffer due to frequent reshuffling of staff without knowledge of that Secretariat.

4. Taking cognizance of frequent posting/transfer of officers/officials from FATA to settled areas and vice versa by the respective Departments without prior consultation with the FATA Secretariat, it was emphasized on all the Administrative Departments, vide circular letter No -SO(E-I) E&AD/9-126/2006/Vol-II dated 26<sup>th</sup> January, 2007 that the said Secretariat should invariably be consulted before issuing orders of Posting/Transfer of Government Servants from and to FATA. However, the FATA Secretariat have frequently conveyed their apprehensions that these instructions are not being followed, and at times a very embarrassing situation for the FATA Secretariat is created as work suffers due to shortage of staff which becomes a serious issue in the prevailing law and order situation in FATA.

5. In view of above, it is reiterated that:-

- (i) All Provincial Government Departments are directed to move proposals for posting out of an employee from FATA only when a substitute is proposed in the same case.
- (ii) On consent from the FATA Secretariat and approval of the proposal by the competent authority, the substitute to FATA would invariably give his arrival for duty before the employee being transferred out of FATA is relieved.

At  
True Copy

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- (iii) Provincial Government Departments may not accept the arrival report of an employee transferred out of FATA till his proper relieving order is issued by the FATA Secretariat.
- (iv) The Accountant General (PR) is also requested that Last Pay Certificate of an employee transferred out of FATA but not relieved properly by the FATA Secretariat may not be issued in any circumstances.
- (v) Instruction issued vide letter No.SO (E-I) E&AD /9-126/2006/Voll-II dated 26<sup>th</sup> January, 2007 (quoted in Para-4 above) should be followed strictly.
- (vi) No NOC in respect of transfer from FATA to settled area issued by any Head of Line Department of FATA Secretariat should be accepted. Only those NOCs, which have been issued by the Administration & Coordination Department, FATA Secretariat, should be considered.
- (vii) Tenure of Civil Servants must be kept in view while issuing NOC for posting/transfer or considering postings/transfers.
- (viii) No NOC's should be issued in respect of employees in BS-1-15 who is from agency cadre and in whose respect Political Agent and Agency officer have been declared as appointing authorities.
- (ix) Persons appointed in agency cadre, if appointed in the settled areas will resign from service in FATA and will resume service in settled arrears as a fresh candidate.
- (x) NOCs may be issued in respect of employees of the Provincial cadres i.e. BS-16 and above only after completion of their normal tenure and they shall not be transferred out of FATA unless their substitutes are provided simultaneously.

6. It is requested that the above Policy may be followed in letter and spirit, in further, in public interest.

( Authority: No. SOR-VI/E&AD/1-4/2008-Vol:VII Dated Peshawar, 30<sup>th</sup> March, 2009 )

**Change in policy to fill vacant posts in FATA to ensure better human resource management**

I am directed to refer to the subject and to state that the competent authority has been pleased to make following changes to the posting/transfer Policy of the Provincial Government in respect of candidates selected from Zone-I (FATA:-

- a) Every civil servant recruited against Zone-I by Public Service Commission shall directly report to FATA Secretariat. A copy of the joining report shall be submitted by the recruited officer to FATA Secretariat who shall endorse it to the concerned administrative department in the Provincial Government. The FATA Secretariat shall arrange medical and security clearance and thereafter submit a case through the respective administrative department seeking approval of the appointing authority. The appointment letter shall be issued by FATA Secretariat

Attested to be  
Copy

WAKALAT NAMA

IN THE COURT OF KPK Service Tribunal Peshawar

Mst. Talat Begum

Appellant(s)/Petitioner(s)

VERSUS

The Govt of KPK and  
others

Respondent(s)

I/We Appellant do hereby appoint  
Mr. Khaled Rehman, Advocate Supreme Court of Pakistan in the above  
mentioned case, to do all or any of the following acts, deeds and things.

1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file or withdraw all proceedings, petitions, appeals, affidavits and applications for compromise or withdrawal or for submission to arbitration of the said case, or any other documents, as may be deemed necessary or advisable by them for the conduct, prosecution or defence of the said case at all its stages.
3. To receive payment of, and issue receipts for, all moneys that may be or become due and payable to us during the course of proceedings.

AND hereby agree:-

- a. That the Advocate(s) shall be entitled to withdraw from the prosecution of the said case if the whole or any part of the agreed fee remains unpaid.

In witness whereof I/We have signed this Wakalat Nama hereunder, the contents of which have been read/explained to me/us and fully understood by me/us this \_\_\_\_\_

Attested & Accepted by

Khaled Rehman,  
Advocate,  
Supreme Court of Pakistan

3-D, Haroon Mansion  
Khyber Bazar, Peshawar  
Off: Tel: 091-2592458

Khaled  
Signature of Executants

SS  
/

**BEFORE THE SERVICE TRIBUNAL K.P.K, PESHAWAR**

Service Appeal No. 69/2016

Mst.Tallat PSHT GGPS Kalo Banda.....Appellant.  
Tehsil Lahor District-Swabi.

**VERSUS**

Secretary to the Govt. of Khyber Pakhtunkhwa Education Department,  
Peshawar and others.....Respondents.

**REPLY ON BEHALF OF THE RESPONDENTS NO. 1 TO 3**

Respectfully Sheweth,

**PRELIMINARY OBECTIONS:**

- 1) That, the appellant has no cause of action to file the instant appeal.
- 2) That, the instant appeal is badly time barred.
- 3) That, the appellant has filed the instant appeal just to pressurize the respondents.
- 4) That the appellant has not come to the Tribunal with clean hands.
- 5) That the appellant has concealed material facts from Honourable Tribunal.
- 6) That appellant is stopped to file the appeal by her own conduct.
- 7) That upon concealment of facts, no one can claim any relief hence the instant appeal is liable to be dismissed.

**ON FACTS:**

1. Correct to the extent, that the transfer order was issued vide Endst NO:3499-3504 dated 14/3/2013.from District Swat to District 'Swabi in her own pay and grade.
2. In correct the appellant was PSHT (Primary School Head Teacher) in BPS.15 and according to up gradation policy only SPST B.14 of the concerned Distinct will be promoted 100% to the said PSHT B-15 post.
3. Incorrect. At that time all the vacant PST posts of District Swabi were advertised for appointment. and due to court case the appointment cannot be made. In this reason guidance was required for the said adjustment. and also received the guidance that the adjustment will be made after appointment.
- 4 No comments.
- 5 Incorrect and denied. That the orderNO:4845-47/F.NO:WP NO:2237/2014/Nadia VS Govt;Swabi/F.NO:95(F)/G.Transfer dated 23-7-2015 being legal in the light of Honourable High Court Peshawar KPK Peshawar decision annex the High Court Judgment the said order was withdrawn and cancelled.
6. Incorrect. The appeal was disposed off and rejected vide Director (E&SE) KPK Peshawar NO:485-92 dated 2/2/2016.(Copy attached).

**GROUND OF APPEAL**

- A. In correct. The appellant was treated according to the constitution ,law and policy.
- B In correct. The impugned order is according to the policy of Provisional

Government.

- C. In correct. No policy is violated by the respondents.
  - D. In correct. Promotion order was in process at that time.
  - E. Policy was observed by the respondents
  - F. Merit was followed strictly.
- G. The other points of law and facts shall be raised / argued if required for the assistance of the Tribunal.

In wake of the above submissions. It is requested that this Honourable Court may very graciously be pleased to dismiss the instant appeal that the appeal.

District Education Officer  
(Female) District Swabi

*Handwritten notes:*  
24/3  
2016

DIRECTOR  
(ELE. & SEC) EDUCATION  
GOVT. K.P.K PESHAWAR

---

SECRETARY  
(ELE. & SEC) EDUCATION  
GOVT. K.P.K PESHAWAR

**AFFIDAVIT**

I Jamshid Khan (Litigation officer) office of the District Education officer (F) Swabi do hereby solemnly affirm and declare that the contents of the accompanying Para-wise comments submitted by respondents are true and correct to the best of my knowledge and belief that nothing has been concealed from this Honourable Tribunal.

DEPONENT

CNIC NO:16201-8766444-7P



REGISTERED. 1

DIRECTORATE OF ELEMENTARY & SECONDARY  
EDUCATION, KHYBER PAKHTUNKHWA PESHAWAR

AT GOVT: HIGHER SECONDARY SCHOOLS NO. 1  
PESHAWAR CITY G.T ROAD PESHAWAR CITY.

PHONE No. 091-9210389/ 091-9210468,  
091- 9210938/091-9210957  
FAX NO:9210936, 091-9211773

No. \_\_\_\_\_ /AD (Litigation-1)  
Dated Peshawar the 02/10 /2016.

To

1. Mst: Talat Begum, PSHT,  
Government Girls Primary School Uthror, (kalam)  
District SWAT.

Subject: -

DEPARTMENTAL APPEAL IN RESPECT OF  
MST: TALAT BEGUM PSHT GOVERNMENT  
GIRLS PRIMARY SCHOOL UTHROR (KALAM)  
DISTRICT SWAT.

Memo:

In pursuance to your Departmental Appeal dated 02/10/2015 regarding the cancellation/ with drawl of transfer order from District Swat to District Swabi. You are hereby informed that the competent authority has been thoroughly examined/scrutinized your appeal & it was observed that the said cancellation/withdrawal order was passed in light of Hon,able Peshawar High Court Peshawar judgment dated 07/04/2015 in writ petition No.2237-P/2014, titled Mst:Nadia Versus Government of Khyber Pakhtunkhwa & Others.

And wherein,

You were promoted from SPST BPS-14 to the post of PSHT BPS-15 in District Swat. As per existing rules PSHT post is required to be filled 100% by promotion from SPST of the concerned District, it cannot filled by transfer or initial recruitment. The Departmental appeal is worthless and inadequate having no credence of acceptance under the Law, Rules & existing policy of the Government. Hence your appeal is not maintainable & not acceptable under the Rules & Rejected.

Sq1  
Deputy Directress (Establishment)  
Elementary & Secondary Education,  
Khyber Pakhtunkhwa, Peshawar.

Endst:No. 486-92 /  
Copy forwarded to the:-

Dated Peshawar the \_\_\_\_\_ /16

1. Additional Registrar, Peshawar High Court Peshawar.
2. Additional Advocate General, Peshawar High Court Peshawar..
3. District Education Officer (Female) Swabi for immediate n/action.



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR****Service Appeal No. 69/2016**

Mst. Talat Begum .....Appellant

Versus

The Govt. of KPK and others.....Respondents

---

**REJOINDER ON BEHALF OF APPELLANT IN RESPONSE  
TO REPLY FILED BY RESPONDENTS NO.1 to 3.**

---

Respectfully Sheweth,

**Preliminary Objections:**

Preliminary objections raised by answering respondents are erroneous and frivolous. The appellant has got cause of action to file the instant appeal which has been filed within time. All the facts have been properly brought on the record and nothing has been concealed from the Hon'ble Tribunal.

**Facts:**

1. Being admitted needs no rejoinder.
2. Misconceived. The Respondents have not answered the Para-2 of the appeal. Appellant was properly promoted to BPS-15 in accordance with the policy which is not the subject matter in the instant case.
3. Incorrect. The adjustment of the appellant was made after proper guideline provided by the office of Respondent No.2.
4. Being not replied hence admitted.

5. Incorrect. The facts of the cited case and the case in hand are quite distinguishable and therefore cannot be quoted in defence.
6. Misconceived. The appeal was wrongly rejected during the pendency of the appeal.

**Grounds:**

- A. Incorrect hence denied.
- B. Misconceived. The impugned order is against the law and hence not sustainable.
- C. Incorrect. The Respondents have violated the law.
- D. Incorrect hence denied.
- E. Incorrect. The Policy of the Provincial Government was violated.
- F. Incorrect.
- G. Needs no reply.

It is, therefore, humbly prayed that the reply of answering Respondents No. 1 to 3 may graciously be rejected and the appeal as prayed for may graciously be accepted with costs.

Through

Appellant

Khaled Rahman  
Advocate, Peshawar

Dated: 03/06/2016

**Verification**

Verified, as per instructions of my client, that the contents of this rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Counsel

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 69/2016

Mst. Talat Begum .....Applicant/Appellant

Versus

The Govt. of KPK and others.....Respondents

---

**Application for amendment of the titled Service Appeal to the extent of challenging the appellate order dated 02.02.2016.**

---

Respectfully Sheweth,

1. That the titled Service Appeal is pending before the Hon'ble Tribunal fixed for today.
2. That on the previous date of hearing the Respondents have filed the reply to the main appeal wherewith they annexed the appellate order dated 02.02.2016 whereby the departmental appeal of the appellant has been reportedly rejected.
3. That the appellate order ibid, needs to be challenged in the instant appeal, therefore, permission to that extent is needed to properly challenge the same in accordance with law. (Amended Appeal alongwith Amended Index is attached)
4. That the amendment so sought will not change the nature of the case.

It is, therefore, humbly prayed that the amended as mentioned hereinabove may graciously be allowed.

  
Applicant/Appellant

Through

**Khaled Rahman**  
Advocate,  
Supreme Court of Pakistan

Dated: 03/06/2016

**Verification**

Verified, as per instructions of my client, that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

  
Counsel

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Amended Service Appeal No. 69 /2016

Mst. Talat Begum..... Appellant

Versus

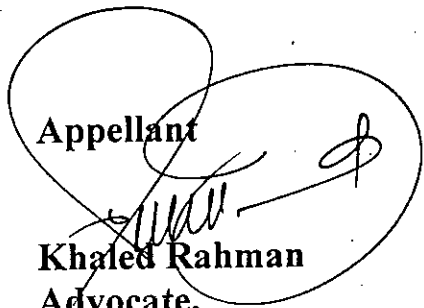
The Govt. of KPK and others..... Respondents

AMENDED INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Amended Service Appeal			1-4
2.	Stay application with Verification			0-5
3.	Service Card and Affidavit		A	6-7
4.	Transfer order	14.03.2013	B	0-8
5.	Guidance letter	25.03.2013	C	0-9
6.	Reply to Guidance letter	13.06.2013	D	0-10
7.	Adjustment order	21.11.2013	E	0-11
8.	Transfer order	21.12.2013	F	0-12
9.	Verification letter	25.10.2013	G	0-13
10.	LPC		H	0-14
11.	Impugned order of withdrawal	23.07.2015	I	0-15
12.	Impugned withdrawal of adjustment	19.08.2015	J	0-16
13.	Departmental Representation	02.10.2015	K	17-19
14.	Comments		L	0-20
15.	Impugned appellate order	02.02.2016	L/2	0-20A
16.	Posting/Transfer Policy		M	21-23
17.	Wakalat Nama			

Through

Appellant

  
Khaled Rahman  
Advocate,

Supreme Court of Pakistan

3-D, Haroon Mansion

Khyber Bazar, Peshawar

Off: Tel: 091-2592458

Cell # 0345-9337312

Dated: 03/06/2016

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Amended Service Appeal No. 69 /2016**

**Mst. Talat Begum.**

PSHT, GGPS, Kalo Banda,

Tehsil Lahore, District Swabi .....Appellant

Versus

1. **The Govt. of Khyber Pakhtunkhwa**  
through Secretary Elementary & Secondary Education  
Civil Secretariat, Peshawar.
2. **The Director,**  
Elementary & Secondary Education,  
Khyber Pakhtunkhwa, Peshawar.
3. **The District Education Officer (Female)**  
District Swabi.....Respondents

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**AMENDED SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED ORDERS DATED 23.07.2015, 19.08.2015 COMMUNICATED ON 09.09.2015 AGAINST WHICH THE APPELLANT PREFERRED A DEPARTMENTAL REPRESENTATION WHICH WAS REJECTED VIDE IMPUGNED APPELLATE ORDER DATED 02.02.2016.**

---

**PRAYER:**

On acceptance of the instant appeal, the impugned orders dated 23.07.2015 and 19.08.2015 communicated on 09.09.2015 and appellate order dated 02.02.2016, may graciously be set aside by allowing the appellant to remain posted at GGPS Kalo Banda, District Swabi.

---

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. That the appellant was appointed as PST in District Swat in the year 1995. She was upgraded to BPS-15 on 27.02.2013. Her husband namely Muhammad Sahib is serving as Watchman Social Security

Institution, Government of Khyber Pakhtunkhwa. (Service Card and Affidavit of the Appellant *Annex:-A*).

2. That since both the spouses were Govt. servants but posted at far-flung areas, therefore, under the Spouse Policy they applied to the competent authority and accordingly the competent authority was pleased to transfer the appellant to District Swabi vide order dated 14.03.2013 (*Annex:-B*).
3. That after such transfer, Respondent No.3 sought guidance from Respondent No.2 for adjustment of the appellant vide letter dated 25.03.2013 (*Annex:-C*), who provided the same vide letter dated 13.06.2013 (*Annex:-D*) and thus vide adjustment order dated 21.11.2013 (*Annex:-E*) appellant was adjusted at GGPS Jalsey No.3 Lahore, District Swabi. Subsequently, she was transferred to GGPS Kalo Banda, Lahore, District Swabi vide order dated 21.12.2013 (*Annex:-F*).
4. That pursuant to the transfer order, the Respondent No.3 vide letter dated 25.10.2013 (*Annex:-G*) requested the District Education Officer (Female) Swat for verification of the promotion order of the appellant which was verified. (LPC of the appellant *Annex:-H*).
5. That after the transfer of the appellant to district Swabi, she performed her duties regularly and received salaries. Vide impugned order dated 23.07.2015 (*Annex:-I*) the transfer of the appellant was all of sudden withdrawn after two and half years without any reasons. The Respondent No.3 pursuant to the order *ibid*, also withdrew the adjustment order of the appellant vide impugned order dated 19.08.2015 (*Annex:-J*) which was communicated to the appellant on 09.09.2015.



6. That appellant preferred a departmental Representation (*Annex:-K*) against the impugned orders upon which Respondent No.3 submitted her comments (*Annex:-L*) but the same was subsequently rejected vide impugned appellate order dated 02.02.2016 (*Annex:-L/2*) not disposed of within the statutory period of 90 days, hence this appeal inter-alia on the following grounds:-

**Grounds:**

- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned orders, which are unjust, unfair and hence not sustainable in the eye of law.
- B. That the impugned orders are against the Posting/Transfer Policy (*Annex:-M*) issued by the Provincial Government.
- C. That the Spouse Policy was also violated by issuing the impugned orders. Moreover, the cited Judgment referred in the appellate order is also not attracted to the case in hand.
- D. That the transfer order of the appellant was implemented, carried into effect and the same now cannot be canceled under the principle of locus poenitentiae.
- E. That the Constitution protects the family and family rights.
- F. That the impugned orders are against the Judgments of the superior fora.

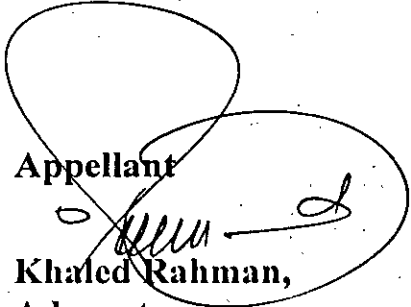
G. That appellant would like to offer some other grounds during the course of arguments.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

Through

Appellant

  
Khaled Rahman,

Advocate,

Supreme Court of Pakistan

Dated: 03/06/2016

20A

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L/2

REGISTERED. 1

DIRECTORATE OF ELEMENTARY & SECONDARY  
EDUCATION, KHYBER PAKHTUNKHWA PESHAWAR

AT GOVT: HIGHER SECONDARY SCHOOLS NO. 1  
PESHAWAR CITY G.T ROAD PESHAWAR CITY.

DR  
*[Handwritten signature]*

PHONE No. 091-9210389/ 091-9210468,  
091- 9210938/091-9210957  
FAX NO.9210936, 091-9211773

No. \_\_\_\_\_ /AD (Litigation-1)  
Dated Peshawar the 02/10 /2016.

To

1. Mst: Talat Begum, PSHT,  
Government Girls Primary School Uthror,(kalam)  
District SWAT.

Subject: -

DEPARTMENTAL APPEAL IN RESPECT OF  
MST: TALAT BEGUM PSHT GOVERNMENT  
GIRLS PRIMARY SCHOOL UTHROR (KALAM)  
DISTRICT SWAT.

Memo:

In pursuance to your Departmental Appeal dated 02/10/2015 regarding the cancellation/ withdrawal of transfer order from District Swat to District Swabi. You are hereby informed that the competent authority has been thoroughly examined/scrutinized your appeal & it was observed that the said cancellation/withdrawal order was passed in light of Hon.able Peshawar High Court Peshawar judgment dated 07/04/2015 in writ petition No.2237-P/2014, titled Mst:Nadia Versus Government of Khyber Pakhtunkhwa & Others.

And wherein,

You were promoted from SPST BPS-14 to the post of PSHT BPS-15 in District Swat. As per existing rules PSHT post is required to be filled 100% by promotion from SPST of the concerned District, it cannot filled by transfer or initial recruitment. The Departmental appeal is worthless and inadequate having no credence of acceptance under the Law, Rules & existing policy of the Government. Hence your appeal is not maintainable & not acceptable under the Rules & Rejected.

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12/2/16

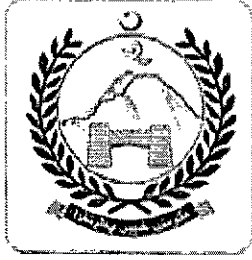
486-92

*Sd/-*  
Deputy Directress (Establishment)  
Elementary & Secondary Education,  
Khyber Pakhtunkhwa, Peshawar.

Endst.No. \_\_\_\_\_ /  
Copy forwarded to the:-

Dated Peshawar the \_\_\_\_\_ /16

1. Additional Registrar, Peshawar High Court Peshawar.
2. Additional Advocate General, Peshawar High Court Peshawar..
3. District Education Officer (Female)-Swabi for immediate n/action.



**KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL, PESHAWAR**

No. 1241 /ST Dated: 19/9/2017

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281  
Fax:- 091-9213262


To,

The District Education Officer (Female),  
Government of Khyber Paktunkhwa,  
Dir Lower.

Subject: - **JUDGMENT IN APPEAL NO. 69/2016, MST. TALAT BEGUM.**

I am directed to forward herewith a certified copy of judgment dated 28/08/2017 passed by this tribunal on the above subject for strict compliance.

**Encl: as above**

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR