

1524/13

19.5.2014

Appellant with counsel and AAG with Farmanullah, Supdt on behalf of respondents No. 1 to 3 present and reply filed. Clerk to counsel for private respondent No.4 present and requested for further time. To come up for written reply of respondent No.4 on 12.8.2014.

MEMBER

MEMBER

12.08.2014

Counsel for the appellant, and AAG with Yousaf Khan, ADO for official respondents present who already filed written reply. Counsel for private respondent No. 4 present and filed written reply. Copy handed over to counsel for the appellant. To come up for rejoinder on 06.11.2014.

MEMBER

4/11/14  
MEMBER

Counsel for the appellant and Mr. Muhammad Adeel Butt, AAG with Yousaf Khan, ADO for the respondents present. Counsel for the appellant submitted before the court that grievance of the appellant has been redressed by the respondent-department and requested for withdrawal of the appeal. His signature obtained in the margin of order sheet. As such the appeal is dismissed as withdrawn. File be consigned to the record.

ANNOUNCED  
06.11.2014

MEMBER

MEMBER

MEMBER

On 10/23/2013, the respondent filed a motion for summary judgment and a declaration of the respondent's status as a member of the respondent's organization. The respondent also filed a motion for summary judgment and a declaration of the respondent's status as a member of the respondent's organization.

10/23/2013

Appellant with Counsel and Mr. [Name]

Appellant

This case is brought before the court for further proceedings.

10/23/2013

Member

The respondent filed a motion for summary judgment and a declaration of the respondent's status as a member of the respondent's organization. The respondent also filed a motion for summary judgment and a declaration of the respondent's status as a member of the respondent's organization.

On 10/23/2013, the respondent filed a motion for summary judgment and a declaration of the respondent's status as a member of the respondent's organization. The respondent also filed a motion for summary judgment and a declaration of the respondent's status as a member of the respondent's organization.

10/23/2013

Counsel for the appellant Messrs. [Name] and [Name]

3. 27.01.2014

*Appellant deposited  
Process fee & Security  
of Rs. 2000/- Bank Receipt  
attached with file.*

Counsel for the appellant present. Preliminary arguments heard and case file perused. Through the instant appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, the appellant has impugned transfer order dated 19.06.2013, vide which respondent No. 4 was transferred from GHS Jughabanj to GHSS Wari, District Dir Upper against the post for the which the appellant had preferred. The departmental appeal filed by the appellant has not been responded within the statutory period of 90 days, therefore the appellant came to this Tribunal for seeking relief. Though the instant appeal filed by the appellant before this Tribunal is apparently barred by limitation, however before filing the appellant has approached Peshawar High Court Mingora Bench (Dar-Ul-Qaza) Swat and writ petition was dismissed as withdrawn on 23.10.2013 with the liberty to seek legal remedy before the forum available under the law. On this pretext the appeal in hand is within time.

The matter required further consideration, hence admit for regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notice be issued to the respondents for submission of written reply on 10.03.2014.

*[Signature]*  
Member

5. 27.01.2014

This case be put before the Final Bench 11 for further proceedings.

*[Signature]*  
Chairman

10.3.2014

Appellant with Counsel and Mr. Muhammad Jan, GP with Muhammad Iqbal, ADO for official respondents and Mr. Barkatullah Khan, Advocate for private respondent No. 4 present and Wakalatnama placed on file. Respondents need time. To come up for written reply on 19.5.2014.

MEMBER *[Signature]*

MEMBER *[Signature]*

Form- A  
FORM OF ORDER SHEET

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

Case No. 1524/2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	20/11/2013	<p>The appeal of Mr. Kifayatullah presented today by Mr. Khaled Reheman Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR</p>
2	27-11-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>27-1-2014</u></p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1524/2013

Kifayatullah

The Govt. and others

Versus

.....Appellant

.....Respondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal			1-5
2.	Application for Condonation of delay			6-7
3.	Appointment Order	22/12/1994	A	8
4.	Service Certificate		A/1	9
5.	Transfer Order	3/11/2003	B	10
6.	Promotion Order	28/2/2013	C	11-13
7.	Vacancy Certificate	29/5/2013	D	14
8.	Processing Letter	23/5/2013	E	15-16
9.	Application for transfer	17/6/2013	F	17
10.	Impugned Transfer Order	19/6/2013	G	18
11.	Departmental Appeal		H	19
12.	WP No. 382-M/2013		I	20-25
13.	Order of the Court	23/10/2013	J	26
14.	Transfer/Posting Policy		K	27-28
15.	Certificate of Tenure	15/8/2013	L	30
16.	Wakalat Nama			

Appellant

Through

**Khaled Bahman**  
Advocate, Peshawar

9-B, Haroon Mansion,  
Khyber Bazar, Peshawar.  
Cell # 0345-9337312

Dated: 20 / 11/2013



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Service Appeal No. 1524/2013**

Kifayatullah SCT  
Govt. High School Osori,  
District Dir Upper.....Appellant.

R.W.P. Peshawar  
Case No. 1569  
Dated 20/11/13

Versus

1. The Govt. of Khyberpukhtunkhwa through Secretary Elementary and Secondary Education Department Civil Secretariat Peshawar.
2. The Director, Elementary and Secondary Education Khyberpukhtunkhwa Peshawar.
3. The District Education Officer, (Male) District Dir upper.
4. Ashfaq Ahmad, CT Govt. High School Wari District Dir Upper..... Respondents

20/11/13

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**SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED TRANSFER ORDER DATED 19.06.2013 WHEREBY RESPONDENT NO. 4 WAS TRANSFERRED FROM GHS JUGHABANJ TO GHSS WARI, DISTRICT DIR UPPER AGAINST WHICH THE APPELLANT PREFERRED DEPARTMENTAL APPEAL BUT THE SAME WAS NOT DECIDED WITHIN THE STATUTORY PERIOD OF 90 DAYS.**

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**PRAYER:**

On acceptance of the instant appeal, the impugned Transfer Order dated 19.06.2013 to the extent of Respondent No. 4 may graciously be set-aside and Appellant be transferred to GHSS Wari, District Dir Upper.

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Respectfully Sheweth,

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

1. That the Appellant is the employee of Education Department serving as Senior Certified Teacher (BPS-16). He was appointed as CT (BPS-15) vide Order dated 22.12.1994 (**Annex:-A**) and posted at GHS Gandigar. He was then transferred to GHS Akhagram on 5.7.1997 and remained there till 20.6.2003 vide Certificate (**Annex:-A/1**). He was later on transferred to GHS Kirdara on 1/8/2003 and was then transferred to GHS Osori vide Order dated 3/11/2003 (**Annex:-B**) and till date he is serving at GHS Osori, District Dir Upper. It is pertinent to mention here that the Appellant was promoted to the post of SCT (BPS-16) vide Notification dated 28.2.2013 (**Annex:-C**) alongwith one Mr. Mohammad Hizzoor Khan.
2. That the Appellant has remained at far distanced schools for more than 26 kilometers away from the village of Appellant. The stations upon which the Appellant remained posted are hard and un-attracted areas having no means of transportation and other facilities.

3. That a vacancy was going to occur on the eve of retirement of one Mr. Mohammad Hizzor Khan at GHSS Wari, District Upper near to the village of Appellant as would be evident from the Certificate dated 29/5/2013 (**Annex:-D**) for which the Appellant had made an application to the Competent Authority which was processed vide letter dated 23.5.2013 (**Annex:-E**) followed by another application dated 17.6.2013 (**Annex:-F**) but without any favourable result.
4. That vide impugned Order dated 19.6.2013 (**Annex:-G**) Respondent No. 4 being not entitled for the subject transfer was transferred to the disputed school in violation of the law and Transfer Policy.
5. That being aggrieved of the Order *ibid*, the Appellant preferred a departmental appeal (**Annex:-H**) there against which was processed but not finalized, hence, the appellant filed a Writ Petition No. 382-M of 2013 (**Annex:-I**), before the Honourable Peshawar High Court, Mingora Bench, Swat but due to the bar of jurisdiction, the Writ Petition was withdrawn with permission to approach the proper forum which was granted vide Order dated 23.10.2013 (**Annex:-J**), hence, this Service Appeal *inter-alia* on the following grounds:-

**Grounds:**

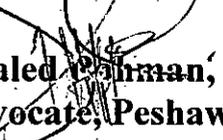
- A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned Transfer Order which is unjust, unfair and hence not sustainable in the eye of law.
- B. That the impugned Transfer Order is violative of the Transfer and Posting Policy (**Annex:-K**), hence, is not maintainable under the law.
- C. That the Appellant has remained at far-flung hard and un-attractive areas/stations for almost two decades and, therefore, was entitled to have been transferred to a nearest station in the public interest.
- D. That as soon as the vacancy at the disputed school occurred, the Appellant filed an application for his transfer to it being entitled under the policy and the application was processed but then the same was not considered and Respondent No. 4 was unlawfully transferred to the disputed school.
- E. That Respondent No. 4 is serving as CT (BPS-15) while the person who got vacated the post at disputed school namely Mr. Mohammad Hizzor Khan was SCT (BPS-16) and promoted as such alongwith the Appellant, therefore, the very posting of Respondent No. 4 to the disputed post is illegal.

- F. That the impugned Transfer Order has been obtained through political consideration and, therefore, is not sustainable under the Policy.
- G. That for hard and un-attractive areas, the tenure, as per the Transfer/Posting Policy is 1,2 & 3 years but the Appellant remained posted at one place for long years. The tenure of the Appellant at far-flung, hard and un-attractive areas is about two decades while at the present place is more than 10 years while that of the Respondent No. 4 is 9 years vide Certificate (Annex:-L) and being senior to the Respondent No. 4, Appellant is all entitled having superior right to be transferred to the disputed school.
- H. That the Appellant also begs to submit any other grounds at the time hearing.

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 Chirman,  
Advocate, Peshawar.

Dated: 20 / 11/2013

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR****Service Appeal No. \_\_\_\_\_/2013**

Kifayatullah.....Applicant

Versus

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

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**Application for condonation of delay in filing the  
accompanying Appeal**

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Respectfully Sheweth,

1. That the above titled service appeal is being filed today which is yet to be fixed for hearing.
2. That some delay has occurred while filing the instant Appeal which is condonable in the interest of justice.
3. That Appellant was pursuing his legal remedy before the Honourable Peshawar High Court, Peshawar and when the Honourable Court was of the view that the matter is within the jurisdiction of this Honourable Tribunal, then, with permission of the Court to approach the proper forum, the Writ Petition was withdrawn.
4. That it is in the interest of justice to condone the delay and moreover, it is a settled legal principle

that technicalities including limitations should be avoided.

It is, therefore, humbly prayed that on acceptance of this application, the delay in filing the accompanying appeal may graciously be condoned in the interest of justice.



Applicant

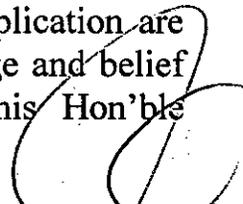
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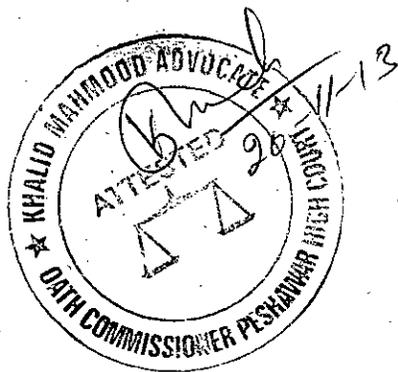
  
Khaleed Rehman,  
Advocate, Peshawar.

Dated: 20 / 11/2013

Affidavit

I, Khaleed Rehman, Advocate Peshawar, as per instructions of my client/appellant do hereby affirm and declare on oath 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.

  
Deponent



APPOINTMENT ORDER.

Consequent upon the advertisement published in daily Mashriq dated 28.5.94 and interviews held wef 28.6.94 to 3.7.94 by the Departmental Selection Committee Malakand Division Saidu Sherif Swat and merit list drawn according to the Govt. Rules and Law bearing No: SO-I(S&GAD)4-117/9(c) Regulation wing dated 12th October 1993 and No: SOS(III)S&GAD/2(91)86 Dated 24.4.86 read with SOR-K(S&GAD)4-1-75 Dated 11th February 1987 the appointment of the following Candidates are hereby ordered as ST/SV in BPS No:9(1605-92-3060) plus usual allowances due and admissible to them under the rules in the schools noted against each in the interest of public wef. the date of taking over charges.

S.No:	Name/Parcentage/Address	School where posted.	Remarks
1.	Kifayatullah S/O Ghulam Serwar MA CT PTC GPS Mula Patay Dir.	GHS Gandigar Dir.	Against CT Post.
2.	Zahir Shah S/O Mazoob MA CT PTC GPS Kabal Swat.	GMS Ghakhi Banda (Swat).	-do-
3.	Sarirud Din S/O Faqal Wahid MA CT GPS Shamoza (Swat).	GMS Ghakhi Banda (swat).	-do-
4.	Mohammad Shan Khisro S/O Jehan- Keb MA CT PTC GPS Kordshung (Dir)	GHS Nehag Dara (Dir)	-do-
5.	Sultan Ali S/O Asfandiar PTC GPS No: 2 Hodegram (Swat).	GMS Therorai (Swat).	-do-
6.	Mohammed Yar S/O Mohammad Shah Khan SV GHS Miskini Dir.	GMS Tanager Khan (Dir).	-do-
7.	Shamsul Islam S/O Akram Khan PTC GPS Kananet R/O Ghawer Kalay Mkd: Agency.	GHS Kair Dara.	Against SV vacant post
8.	Safarash Khan S/O Waris Khan PTC GPS Qabrono Kandao Bunair.	GHS Totalat Bunair.	-do-
9.	Rohool-Amin S/O Mohammad Amin PTC GPS Hazratbad Koper Mkd: Agency.	GHS Lajbook (Dir)	-do-
10.	Nasim Javaid S/O Hazrat Said R/O Kooper Mkd: Agency.	GMS Dantal (Dir).	-do-
11.	Fazal Rabbi S/O Abdul Halim R/O Serai Gat Matta (Swat).	GMS Lalkeo (Swat).	-do-
12.	Nisar Mohammad S/O Syed Mohd. R/O Bakoon Balambat (Dir).	GHS Miskini Dir).	Vice B.
13.	Mohammad Salim S/O Gul Zaboob R/O Nawagai (Bunair).	GHS Karna (Bunair).	Against SV post.
14.	Rafiq Ahmad S/O Harmoz Khan R/O Kokarai (Swat).	GHS Kedam (Swat).	-do-

TERMS AND CONDITIONS.

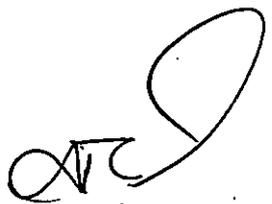
1:- The appointments are purely temporary and stop-gap arrangements and liable to termination at any time without giving any reasons from either side.

2:- In case of resignation, they will have to give one month notice to the Department or forfeit one month's salary in lieu thereof.

3:- All original Education/Professional certificates should be checked thoroughly before handing over charge if necessary they should be get verified from the institution from where issued. This is must.

4:- Their attested /photo copies of all certificate character certificates, Medical certificate etc should be obtained.

PTO



a complete file should be sent to this office within one week of the issue of this order.

The appointment is subject to the production of Age and Health Certificate from the Authorised Medical Superintendent/ Civil Surgeon.

They are liable to be posted anywhere in Malakand Division and they shall not be transferred from their present place of posting before completion of normal tenure which is 2/3 years.

Their age should not exceed 25/24/30 (Inservice Teachers except)

If the above mentioned conditions are acceptable to them, then they should be given charge within a week of the issue of this order as necessary undertaking should be obtained from them and placed on their personal files.

They are not entitled to get any TA/DA being first appointment.

They will have to vacate the post for trained teachers/candidates and he should undergo any Educational Training within 2 years and will have to qualify them for the post occupied by him.

(SYED NOHAN RACHA)  
DIVISIONAL DIRECTOR OF EDUCATION  
(SCHOOLS) MALAKAND DIVISION AT  
GULKADA (Swat).

Order No. 10073-79 /A-12/Appointments Dated 22/12/1994  
Copy to:-

- 1. The District/Agency Accounts Officer Dir, Swat and Bunair and Mcd.
- 2. The District Education Officers (Male) Dir, Swat, Mcd: and Bunair.
- 3. The Principal/Headmaster concerned.
- 4. The Superintendent local office.
- 5. The PA to the Divisional Director local office.
- 6. The candidates concerned on their home addresses.
- 7. The master file.

FOR/ DIVL DIRECTOR OF EDUCATION(S)  
MALAKAND DIVISION AT GULKADA

SERVICE CERTIFICATE

Annex A/1 (9)

Certified that Mr. Khafayatullah  
 S/o Hafiz Ghulam Sarwar Village Wari  
 Tehsil & P/o Wari has been a C.T  
 teacher in GHS Akhagram w.e.f  
 05-07-1997 to 20-6-2003.

  
 Head Master  
 G.H.S. Akhagram  
 Distt: [unclear]  
 Head of Master  
 GHS Akhagram  
 Dri (u)

  
 C.T.C

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41	Mr. Mohammod Rahman, CT	GHS, Wari	GHS, Wari	Vice No. 13
45	Mr. Mohammad Islam, CT	GMS, Almas	GHS, Gamsar	Vice No. 42
		GHS, Gamsar	GMS, Almas	Vice No. 15
				Vice No. 14

A/1



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OFFICE ORDER.

Annex B

Mr. Kifayatullah, CT Govt: High School Fahi Dara PH Upper Dir. is hereby adjusted/posted at Govt: High School Oserri against vacant CT post his own pay and grade with immediate effect in the interest of service.

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

EXECUTIVE DISTRICT OFFICER,  
SCHOOLS/LITERACY UPPER DIR.

Endst. No:- 8719-21/F:12/EDD/S&L/DO(M)/ADG/Estt/Dat: 3/11/03

- 01- Copy of the above is forwarded to the:-
- 02- District Accounts Officer Upper Dir.
- 03- Head Master GHS Kairdara/GHS Oserri.
- Official concerned.

EXECUTIVE DISTRICT OFFICER,  
SCHOOLS/LITERACY UPPER DIR.

3/11/03

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OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) DIR UPPER,  
OFFICE ORDER.

Consequent upon their promotion of (Male) Certified Teachers BPS-15 to the post of Senior Certified Teachers (S-CT), BPS-16 (Rs.10000-800-34000) plus usual allowances as admissible under the rules vide Director Elementary & Secondary Education Khyber Pakhtunkhwa Notification Endst:No.4621-27/F.No.2/promotion Senior CT B-16 Dated Peshawar, 21/2/2013 are hereby further adjustment in the schools noted against each:

S.No	Name & Designation	Present School	Place of Posting	Remarks
1	Mr, Mohammad Iqbal, CT	GMS, Doon Serai	GHSS, Kalkot	Against Vacant Post.
2	Mr, Abdul Jalal, CT	GMS, Lamoti	GHS, Thall	Against Vacant Post.
3	Mr, Mohammad Riaz, CT	GMS, Doag (P)	GHS, Miana Doag	Vice No.4
4	Mr, Fazal Subhan, CT	GHS, Miana Doag	GMS, Doag (P)	Vice No.3
5	Mr, Matiullah, CT	GMS, Gurrai	GHSS, Sharingal	Vice No.6
6	Mr, Zahoorul Islam, CT	GHSS, Sharingal	GMS, Gurrai	Vice No.5
7	Mr, Akber Khan, CT	GMS, Duro	GHSS, Sharingal	Against Vacant Post.
8	Mr, Mohammad Nabi, CT	GHS, Sawni	GMS, Duro	Vice No.7
9	Mr, Mohammad Ayub, CT	GMS, Seratai	GHS, Sawni	Vice No.8
10	Mr, Mohammad Amin, CT	GMS, Doag Bala	GHS, Maina Doag	Vice No.11
11	Mr, Fazal Shah, CT	GHS, Miana Doag	GMS, Doag (Bala)	Vice No.10
12	Mr, Umar Daraz, CT	GMS, Surbat	GHS, Ganori	Vice No.13
13	Mr, Shah Hussain, CT	GHS, Ganori	GMS, Surbat	Vice No.12
14	Mr, S Abdul Waris, CT	GMS, Surbat	GHS, Ganori	Vice No.15
15	Mr, Mohammad Ali, CT	GHS, Ganori	GMS, Surbat	Vice No.14
16	Mr, Mohammad Naeem, CT	GMS, Rehankot	GHS, Chukiatan	Vice No.17
17	Mr, S Najiullah, CT	GHS, Chukiatan	GMS, Rehankot	Vice No.16
18	Mr, Hanifullah, CT	GMS, Kandaw Jabber	GHS, Gamseer	Vice No.19
19	Mr, Shah Zar Hunain	GHS, Gamseer	GMS, Kandaw Jabber	Vice No.18
20	Mr, Naik Bahadar, CT	GMS, Almas	GHS, Gamseer	Vice No.21
21	Mr, Hafizul Haq, CT	GHS, Gamseer	GMS, Almas	Vice No.20
22	Mr, Zainul Abideen, CT	GMS, Spirko	GHS, Berarai	Vice No.23
23	Mr, Gul Mohammad, CT	GHS, Berarai	GMS, Spirko	Vice No.22
24	Mr, Sherin Jan, CT	GMS, Aligasar	GHS, Hayagai (Sharqi)	Against Vacant Post.
25	Mr, Khadim Ahmad, CT	GMS, Hayagai (Gh)	GHS, Hayagai (Sharqi)	Against Vacant Post.
26	Mr Mukaram Khan, CT	GMS, Badalai	GHS, Jatgram	Vice No.27
27	Mr, Amir Mohammad, CT	GHS, Jatgram	GMS, Badalai	Vice No.26
28	Mr, Bashir Ahmad, CT	GMS, Aligasar	GHS, Kattan Bala	Vice No.29
29	Mr, Gul Rafiq, CT	GHS, Kattan Bala	GMS, Aligasar	Vice No.28
30	Mr, Raza Khan, CT	GMS, Belanzai	GHS, Qulandi	Vice No.31
31	Mr, Mohd Ismail Shahid, CT	GHS, Qulandi	GMS, Belanzai	Vice No.30
32	Mr, Latifullah, CT	GMS, Nasrat	GHS, Janbatti	Vice No.33
33	Mr, Mohammad Salim, CT	GHS, Janbatti	GMS, Bandagai	Against Vacant Post.
34	Mr, Ayazullah Khan, CT	GMS, Galkore	GHS, Nehag	Vice No.35
35	Mr, Ahmad Khan, CT	GHS, Nehag	GMS, Galkore	Vice No.34
36	Mr, Mohammad Tahir, CT	GMS, Dir Khan	GHSS, Barawal Band	Vice No.37
37	Mr, Rafiq Ahmad, CT	GHSS, Barawal Band	GMS, Dir Khan	Vice No.36
38	Mr, Samiullah, CT	GMS, Wari	GHSS, Wari	Vice No.39
39	Mr, Noor Halim, CT	GHSS, Wari	GMS, Wari	Vice No.38
40	Mr, Jisar Mohammad, CT	GMS, Shamorgar	GHS, Chukiatan	Vice No.41
41	Mr, Hafizullah, CT	GHS, Chukiatan	GMS, Shamorgar	Vice No.40
42	Mr, Muhammad Jamil Khan, CT	GMS, Kakad	GHSS, Wari	Vice No.43
43	Mr, Habib War Khan, CT	GHSS, Wari	GMS, Kakad	Vice No.42
44	Mr, Mohammad Rahman, CT	GMS, Almas	GHS, Gamseer	Vice No.45
45	Mr, Mohammad Islam, CT	GHS, Gamseer	GMS, Almas	Vice No.44

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46	Mr. Badshah Hussain,CT	GMS, Sundal	GHS, Nehag	Vice No.47
47	Mr. Mohammad Shoaib,CT	GHS, Nehag	GMS, Sundal	Vice No.46
48	Mr. Fozal Wahab,CT	GMS, Umrilai	GHS, S. S Khail	Vice No.49
49	Mr. Mohammad Ayub,CT	GHS, S. S Khail	GMS, Umrilai	Vice No.48
50	Mr. Safiullah,CT	GMS, Changal	GHS, Darora	Vice No.51
51	Mr. Mian Naveed Ahmad,CT	GHS, Darora	GMS, Changal	Vice No.50
52	Mr. Fazal Rahim,CT	GMS, Galkore	GHS, Shinkari	Vice No.53
53	Mr. Hedayatullah,CT	GHS, Shinkari	GMS, Galkore	Vice No.52
54	Mr. Mohammad Khaliq,CT	GMS, Gogyal	GHSS, Wari	Vice No.55
55	Mr. Wazir Zada,CT	GHSS, Wari	GMS, Gogyal	Vice No.54
56	Mr. Saeed Khan,CT	GHS, Jelar	GHS, Beyar	Against Vacant Post.
57	Mr. Mohamamd Hazrat,CT	GMS, Shamorgar	GHS, Bibyaware	Vice No.58
58	Mr. Rafiullah,CT	GHS, Bibyaware	GMS, Shamorgar	Vice No.57
59	Mr. Habibur Rahman,CT	GCMHS, Dir	=	Post already occupied
60	Mr. Syed Iqbal Hussain,CT	GHSS, Wari	=	Post already occupied
61	Mr. Abdur Rahman,CT	GHS, Miana Daag	=	Post already occupied
62	Mr. Habibullah Khan,CT	GHSS, Barawal Bandi	=	Post already occupied
63	Mr. Sardar Ibrahim,CT	GHSS, Wari	=	Post already occupied
64	Mr. Rahman Ali Shah,CT	GHSS, Gandigar	=	Post already occupied
65	Mr. Mohammad Din,CT	GCMHS, Dir	=	Post already occupied
66	Mr. Sayed Dawood Jan,CT	GHS, Ganori	=	Post already occupied
67	Mr. Gul Mohammad,CT	GHS, Sawni	=	Post already occupied
68	Mr. Bakht Zaman,CT	GCMHS, Dir	=	Post already occupied
69	Mr. Sher Zaman,CT	GCMHS, Dir	=	Post already occupied
70	Mr. Gul Zada,CT	GHS, Rehankot	=	Post already occupied
71	Mr. Imtiaz Ahmad,CT	GHS, Darora	=	Post already occupied
72	Mr. Zahir Shah,CT	GHS, Nehag	=	Post already occupied
73	Mr. Jehan Alam,CT	GHS, Patrak	=	Post already occupied
74	Mr. Amir Mohammad,CT	GHS, Berarai	=	Post already occupied
75	Mr. Ali Haider,CT	GHS, Samkoot	=	Post already occupied
76	Mr. Saeedur Rahman,CT	GHS, Qulandi	=	Post already occupied
77	Mr. Shafiqur Rahman,CT	GCMHS, Dir	=	Post already occupied
78	Mr. Habib Khan,CT	GHSS, Akhagram	=	Post already occupied
79	Mr. Hussan Zeb,CT	GHS, Shinkari	=	Post already occupied
80	Mr. Maroof Khan,CT	GHS, Samkot	=	Post already occupied
81	Mr. Saiful Islam,CT	GHSS, Sharingal	=	Post already occupied
82	Mr. Nasib Rahman,CT	GHS, S.S Khail	=	Post already occupied
83	Mr. Umar Haleem,CT	GHS, Bin Bala	=	Post already occupied
84	Mr. Said Mohammad Shah,CT	GHS, Chukiatan	=	Post already occupied
85	Mr. Khalilur Rahman,CT	GHS, Sawni	=	Post already occupied
86	Mr. Akhun Zada,CT	GHSS, Sharingal	=	Post already occupied
87	Mr. Mohibul Haq,CT	GHS, Thall	=	Post already occupied
88	Mr. Nazir Ahmad,CT	GHS, Jelar	=	Post already occupied
89	Mr. Mohammad Khaliq,CT	GHS, Shengara	=	Post already occupied
90	Mr. Rahmat Ghafor,CT	GCMHS, Dir	=	Post already occupied
91	Mr. Zarawar Khan,CT	GHS, Patrak	=	Post already occupied
92	Mr. Mohd Alam Khan,CT	GHS, Chukiatan	=	Post already occupied
93	Mr. Mohammad Nawaz,CT	GHS, Shengara	=	Post already occupied
94	Mr. Nisarullah,CT	GHSS, Wari	=	Post already occupied
95	Mr. Ahmad Gul,CT	GHS, Gamseer	=	Post already occupied
96	Mr. Muzaffar Shah,CT	GHSS, Barawal Bandi	=	Post already occupied
97	Mr. Rizaz Ahmad,CT	GHS, Darora	=	Post already occupied
98	Mr. Nisarullah,CT	GHS, Sawni	=	Post already occupied
99	Mr. Mohammad Hizzor Khan	GHSS, Wari	=	Post already occupied
100	Mr. Umar Haleem,CT	GHSS, Wari	=	Post already occupied
101	Mr. Jan Sald,CT	GHS, Panakot	=	Post already occupied
102	Mr. Mohammad Naghn,CT	GHS, Barikot	=	Post already occupied
103	Mr. Badshah Rawan,CT	GHS, Bibyaware	=	Post already occupied
104	Mr. Sultan Yousuf,CT	GHS, Barikot	=	Post already occupied

Signature

106	Mr, Riaz Ahmad Jan, CT	GHSS, Gandigar	==	Post already occupied
107	Mr, Shawkat Ali, CT	GHSS, Barawal Bandi	==	Post already occupied
108	Mr, Ihsanullah, CT	GHS, Ganori	==	Post already occupied
109	Mr, Badshah Zamin, CT	GHS, Gamsccer	==	Post already occupied
110	Mr, Anwar Sharif, CT	GHS, Rehankot	==	Post already occupied
111	Mr, Mohammad Shafi, CT	GHS Bibywar	==	Post already occupied
112	Mr, Mohammad Sherin, CT	GHSS, Sharingal	==	Post already occupied
113	Mr, Mian Salimullah, CT	GHSS, Gandigar	==	Post already occupied
114	Mr, Hussain Mohammad, CT	GHSS, Wari	==	Post already occupied
115	Mr, Badshah Rahman, CT	GHS, Qulandi	==	Post already occupied
116	Mr, Mohammad Zeb, CT	GHS, Panakot	==	Post already occupied
117	Mr, Kefayatullah, CT	GHS, Osorai	==	Post already occupied
118	Mr, Sardar Ahmad, CT	GHS, Rehankot	==	Post already occupied
119	Mr, Abdul Wasi, CT	GHSS, Gandigar	==	Post already occupied
120	Mr, Miftahud Din, CT	GHS, Ganori	==	Post already occupied
121	Mr, Fazal Khaliq, CT	GHS, Bela	==	Post already occupied
122	Mr, Mohammad Aziz, CT	GHS, Nagril	==	Post already occupied
123	Mr, Mohammad Nagin, CT	GHS, Ganori	==	Post already occupied
124	Mr, Aminullah, CT	GCMHS, Dir	==	Post already occupied
125	Mr, Mohammad Riaz, CT	GHS, Sawni	==	Post already occupied
126	Mr, Najibullah Badshah, CT	GHS, Kattan Bala	==	Post already occupied
127	Mr, Amir Mohaminad, CT	GHS, Darora	==	Post already occupied
128	Mr, Sher Badshah, CT	GHS, Darora	==	Post already occupied
129	Mr, Mohammad Pervez, CT	GHSS, Gandigar	==	Post already occupied
130	Mr, Ghulam Qadar, CT	GHSS, Gandigar	==	Post already occupied
131	Mr, Bakht Zamin Khan, CT	GHS, Daskore	==	Post already occupied
132	Mr, Mumtaz Ahmad, CT	GCMHS, Dir	==	Post already occupied
133	Mr, Mushtaq Ahmad, CT	GCMHS, Dir	==	Post already occupied
134	Mr, Mohammad Munir, CT	GHS, Shinkari	==	Post already occupied
135	Mr, Hayatul Islam, CT	GHSS, Sharingal	==	Post already occupied
136	Mr, Khadim Shuaib, CT	GCMHS, Dir	==	Post already occupied
136	Mr, Nawshar Khan, CT	GHS, Hujayal(5th)	==	Post already occupied

**Terms and Conditions:-**

- 1 They would be on probation for a period of one year extendable for another one year.
- 2 They will be governed by such rules and regulations as may be issued from time to time by the Government.
- 3 Their services can be terminated at any time, in case his performance is found unsatisfactory during probationary period. In case of misconduct, he shall be proceeded under the rules framed from time to time.
- 4 Charge report should be submitted to all concerned.
- 5 Their Inter -Se-Seniority on lower post will remain intact.
- 6 No TA/DA is allowed for joining his duty.
- 7 They will give an undertaking to be recorded in their service book to the effect that if any over payment is made to him in light of this order will be recovered and if he is wrongly promoted he will be reversed.

(ABDUR RASHID BALOUCH)  
District Education Officer

(Male) Dir Upper.

Dated Dir, the 28/12/2013.

Endst/No. 576-78 /F.No.52/DEO(Male) Dir(UY)SEB;

Copy to the:-

- 1 District Accounts Officer, Dir Upper.
- 2 PA to Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- 3 All the Principals/Headmasters/Incharge concerned.
- 4 Teachers concerned.
- 5 Accountant Middle Schools (Male) local Office Dir.
- 6 EMIS local office Dir Upper.

Dy. District Education Officer  
(Male) Dir Upper.

*[Handwritten signature]*  
28/12/13

Amir



Annex D  
14

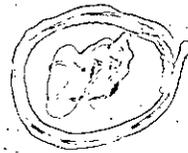
VACANCY CERTIFICATE

It is certified that a post of C.T will be remained vacant w.e.f 3-6-2013, due to the retirement of Mr. Muhammad Ali Khan at C.H.S.S. Wari.

*[Signature]*

29-5-2013

*[Signature]*



5

Directorate of Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar.  
No. 2831 / E.No.1024A-1S/CT/DM/ Dir upper/P. Transfer.  
Dated Peshawar the 23/5/2013.

To: The District Education Officer (Male) Dir Upper.

Amx E  
15

SUBJECT:- Application for transfer of Kifayat Ullah Senior CT.  
Memo:

I am directed to enclose herewith a copy of the application alongwith its enclosures in respect of Mr. Kifayat Ullah Senior CT, GHS, Otori District Dir upper for further necessary action as per rules/policy.

Encl: As above.

Deputy Director (Establishment)  
E&SE, Khyber Pakhtunkhwa Peshawar

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

Copy forwarded for information to the:-

1. Mr. Kifayat Ullah Senior CT, GHS, Otori District Dir Upper.

Deputy Director (Establishment)  
E&SE, Khyber Pakhtunkhwa Peshawar

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یہ خدمت جناب ڈسٹرکٹ ایجوکیشن آفیسر صاحب ضلع ڈیر بالا  
 عنوان: درخواست برائے تبادلہ از گورنمنٹ ہائی سکول اوسٹری (ڈیر بالا)  
 تا گورنمنٹ ہائیئر سیکنڈری سکول واڑی (ڈیر بالا)

16

مؤثر تاریخ تدارش ہے کہ فیوی 1994-12-24 سے بحیثیت  
 سی ٹی مدرسہ حال (ایس سی ٹی) مدرسہ گھر سے باہر دور دراز مقامات  
 پر ایف اے کے انجام دے رہا ہے۔ جس کی تفصیل درج ذیل ہے۔



کتابت و تحریر	کتابت و تحریر	سکول کا نام یہاں فراہم کیا گیا ہے	تاریخ
تقریباً 4 سال	1998ء	گورنمنٹ ہائی سکول گنڈنگار (ڈیر بالا)	21-12-1998
تقریباً 3 سال	2003-7-31	گورنمنٹ ہائی سکول احکرام (ڈیر بالا)	1998ء
تین ماہ 4 دن	2003-11-4	گورنمنٹ ہائی سکول کبیر ڈیرا (ڈیر بالا)	1-8-2003
تقریباً 10 سال	نا حال	گورنمنٹ ہائی سکول اوسٹری (ڈیر بالا)	5-11-2003
کل عمر تقریباً 19 سال			

اب مورخہ 2013-6-3 گورنمنٹ ہائیئر سیکنڈری سکول واڑی  
 میں ٹیچر حضور خان صاحب (ایس سی ٹی) ریٹائر ہو رہا ہے۔  
 اسلئے آپ صاحبان کی خدمت میں عرض کی جاتی ہے کہ  
 میرا بیٹا فرما کر فروری کا تبادلہ گورنمنٹ ہائی سکول اوسٹری (ڈیر بالا) سے  
 گورنمنٹ ہائیئر سیکنڈری سکول واڑی (ڈیر بالا) کو 2013-6-3 کو لائبر  
 ی کی حالت میں زوالی اسامی پر کرنے کا حکم صادر فرمائیں۔  
 عین تفریح ہوگی  
 فقط زیادہ آداب  
 مورخہ 2013-5-6

العارضہ  
 آر صاحبان کا تابع دار لقاہت اللہ (ایس سی ٹی) گورنمنٹ ہائی سکول  
 اوسٹری (ڈیر بالا)  
 16-5-2013

forwarded and strongly recommended to the CEO  
 Mr. Dir Upper with the remarks that the application  
 of the applicant is based on fact, he may kindly  
 be transferred to the vacant set post at  
 Wari Dir ill due to long tenure and of home  
 station shown in the above table.

16.113  
 G. H. S. U. Dir  
 Dir Upper

خدمت جناب ڈسٹرکٹ ایجوکیشن آفیسر صاحب صلح دیر بالا  
عنوان :- درخواست برائے تبادلہ از گورنمنٹ ہائی سکول اوسوڑی  
تا گورنمنٹ ہائیر سیکنڈری سکول واڑی (دیر بالا)

17

جناب عالی

موردانہ گزارش ہے کہ 03-06-2013 کو محمد حضور خان  
صاحب (ایس۔ سی۔ ٹی) گورنمنٹ ہائیر سیکنڈری سکول واڑی سے  
ریٹائر ہوئے ہیں جس کے لیے فدیوی نے 2013-05-24 کو درخواست  
دی تھی۔ فدیوی گزشتہ 19 سال سے گھر سے باہر دور دراز مقامات  
پر اپنا فرائض انجام دے رہا ہے۔

اسلئے آپ صاحبان کی خدمت میں عرض کی جاتی ہے  
کہ مہربانی فرمائیں فدیوی کا تبادلہ گورنمنٹ ہائی سکول اوسوڑی  
سے گورنمنٹ ہائیر سیکنڈری سکول واڑی کرنے کا حکم صادر فرمائیں  
عین نوازش ہوگی۔

فقط زیادہ آداب مورخہ 17/06/2013

العارض  
آپ صاحبان کا تابع دار کفایت اللہ (ایس۔ سی۔ ٹی)  
گورنمنٹ ہائی سکول اوسوڑی (دیر بالا)

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DBO (M) Dir Upper  
Transfer in vac  
Post is vacant because  
rules/policy

Deputy Director (Distt.)  
Elementary & Secy. Education  
Khyber Pakhtunkhwa Peshawar

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20

Amir G 18

OF THE DISTRICT EDUCATION OFFICER (MALE) DIR UPPER.  
BE ORDER

The following transfers of CT/DM/PET/TT is hereby ordered on their own pay and grade with immediate effect in the interest of public service.

S.No	Name & Designation	From	To	Remarks
01.	Mr. Altaullah, CT	GHS, Bayar	GMS, Maskari	
02.	Mr. Khalis Said, CT	GMS, Mallar	GMS, Maskari	Against vacant post.
03.	Mr. Sher Wali Khan, DM	GHS, Thail	GMS, Maskari	-do-
04.	Mr. Muhammad Islam, PET	GMS, Badalai	GMS, Maskari	-do-
05.	Mr. Pervez Khan, PET	GMS, Nasrai	GMS, Maskari	-do-
06.	Mr. Ashfaq Ahmad, CT	GHS, Jughabanj	GMS, Badalai	Vice No.04
07.	Mr. Amir Baz Khan, CT	GHS, Jughabanj	GHS, Wari	Against vacant post.
08.	Mr. Khaiba Rahman, CT	GHS, Door Bala	GHS, Jughabanj	Vice No.06
09.	Mr. Muhammad Iqbal, CT	GMS, Door Bala	GMS, Palaw	Vice No.07
10.	Mr. Ihsanul Haq, TT	GMS, Balkora	GHS, Naqri	Against vacant post.
			GHS, Berarai	-do-

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

District Education Officer  
(Male) Dir Upper.

Endst. No. 208? SK No. 12/DEO (Male) Dir(U)/Secy:Estt: Branch Dated Dir(U) the 17/6/2013.

Copy forwarded to:-

- 01. The District Accounts Officer, Dir Upper.
- 02. The Headmaster/ Incharge concerned.
- 03. The Accountant Middle Schools (Male) local office.
- 04. The Teachers concerned.

District Education Officer  
(Male) Dir Upper.

18/6/13

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Stamp: Director Secondary Education, Government of Punjab, District Education Officer, (Male) Dir Upper, District Education Officer, (Male) Dir Upper, District Education Officer, (Male) Dir Upper.

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خدمت جناب ڈی۔ ای۔ او صاحب (سپیل) ایڈیٹر سیکنڈری ایڈمنسٹریٹو ایجوکیشن

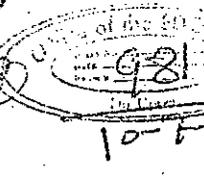
عنواں :- اپیل بوجہ تبادلہ از گورنمنٹ ہائی سکول اوسوڑی تا گورنمنٹ ہائی سکول سیکنڈری سکول واری (ڈیر بک) (18)

Amx H



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جناب عالی! مؤدبانہ گزارش ہے کہ 3 جون 2013 کو گورنمنٹ ہائی سکول سیکنڈری سکول واری (ڈیر بک) جین (ایس۔ سی۔ ٹی۔ - B.P.S. 16) کی اسامی محمد حضور خان صاحب کی ریٹائرمنٹ کی وجہ سے خالی ہو گئی تھی جس کے لیے فدیوں نے پہلے ہی سے درخواست جمع کیا تھا۔ لیکن آپ صاحبان نے مذکورہ پوسٹ پر اشفاق احمد (سی۔ ٹی۔ - B.P.S. 15) کا تبادلہ کیا ہے۔



1 اشفاق احمد (سی۔ ٹی۔ - B.P.S. 16) میں ہے جبکہ خالی ہونے والی اسامی ایس۔ سی۔ ٹی۔ - B.P.S. 16 ہے۔

2 اشفاق احمد کا تبادلہ ہائی سکول جو غابخ سے ہوا ہے۔ جو کہ بے لیب سٹرک ہے اور انتہائی قریب واقع ہے۔

3 اشفاق احمد (سی۔ ٹی۔ - B.P.S. 16) کا Tenure بھی بہت کم ہے۔

اسما کے سیکس فدیوں ایس۔ سی۔ ٹی۔ - B.P.S. 16 میں کام کرتے ہیں اور مذکورہ خالی ہونے والی پوسٹ بھی B.P.S. 16 ہے۔ فدیوں جہاں فرائض انجام دے رہے ہیں وہ کافی دور ہے اور آمدورفت میں خاص مشکلات کا سامنا ہے۔ فدیوں کا Tenure بھی بہت زیادہ ہے۔ یعنی 2019ء سے یعنی گزشتہ 9 سال سے گھر سے باہر دور دراز مقامات پر سفری اخراجات ادا کر رہے ہیں۔

اس لئے آپ صاحبان کی خدمت میں عرض کی جاتی ہے کہ ہم ہائی فرائز پر اشفاق احمد (سی۔ ٹی۔ - B.P.S. 16) کا تبادلہ منظور کر کے مذکورہ خالی ہونے والی پوسٹ پر فدیوں کا تبادلہ کرنے کا حکم صادر فرمائیں۔

عین خواہش ہوگی۔  
فقط زیادہ آراب

الغرض  
آپ صاحبان کا تابع دار کفایت اللہ (ایس۔ سی۔ ٹی۔ - B.P.S. 16) گورنمنٹ ہائی سکول اوسوڑی (ڈیر بک)

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BEFORE THE HON'BLE PESHAWAR HIGH COURT  
MINGORA BENCH (DARUL QAZA) AT SWAT.

Writ Petition No. 382 M of 2013

Kafayat Ullah son of Hafiz Ghulam Sarwar Teacher  
Government High School Ossorai resident of Wari, District Dir  
Upper ..... Petitioner

VERSUS

- 1) Executive District Officer (Elementary & Secondary Education) Dir Upper.
- 2) District Coordination Officer Dir Upper.
- 3) Director (Elementary & Secondary Education) K.P.K Peshawar.
- 4) Govt. Khyber Pakhunkhwa through Secretary Education at Civil Secretariat, Peshawar.
- 5) Ashfaq Ahmad son of Muhammad Yar resident of Wari District Dir Upper ..... Respondents

WRIT PETITION UNDER ARTICLE 199 OF THE  
CONSTITUTION OF ISLAMIC REPUBLIC OF  
PAKISTAN, 1973.

Respectfully Sheweth:

Brief Facts:

- 1) That the petitioner is serving SCT in BPs-16 Education department School & Literacy and was initially appointed against C.T Post on 22/12/1994. (Appointment order is attached as annexure A).

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(2)

(21)

- 2) That the petitioner was posted as such at GHS gandigar District Dir Upper.
- 3) That subsequently the petitioner was promoted to C.T B.P.S 16 from SPS-15 and was transferred to GHS ossorhai on 05/11/2003.
- 4) That the petitioner as such remained there at a distance of 26 kilometers away from his village and as such is serving continuously at Ossorhai Gandasar which is a hard and fast area of district Dir having no transport or other kind of facilities at all which the petitioner bore for the last decade and couple of years.
- 5) That as per Govt. Policy the normal tenure is 1,2,3 years depending upon position of location of area classified as hard fast etc area where the transport facilities are lacking and the incumbent is facing tremendous physical as well as financial torture and constraints.
- 6) That on accrual of retirement of an employee namely Muhammad Hizoor at GHSS wari the petitioner after enough and reasonable efforts obtained NOC regarding expected vacancy at GHSS wari (copy is attached as annexure B dated 29/5/2013).

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Additional Registrar

03 SEP 2013

- 7) That respondent No. 5 namely Ashfaq Ahmad CT while exerting political influence and indulgence being junior in service as well as in scale having remained for a bit of time at a hard and fast area and in contravention of rules and policy has been posted at GHSS wari against BPS-16 post whereas he is serving in BPS-15 which is not recognized by any cannon of law rules and justice to which the petitioner had got a superior right to be transferred.
- 8) That the tenure in out side and heard and fast area of the petition is 18 years 7 month and 25 days and comparatively the respondent No. 5 tenure is 8 years 8months 18 days when he remained out side his village so comparatively the petitioner superior right of transfer and posting has been usurped by. The respondents on political consideration.
- 9) That the exemplary discrimination has been made with the petitioner because the petitioner had obtained all relevant ban relaxation and other paper work from director Education.
- 10) That the office order END No. 2083-86 No. 12/DEO (Male) Dir upper see set branch district Dir dated 19/6/2013, whereby respondent No. 5 has been transferred to Dir wari is discriminatory violative of rules and transfer and pasting policy having adversely

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22/9/13  
Additional Registrar

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(4)  
affecting the right of the petitioner. (copy of order dated 19/06/2013 is attached as annexure C)

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- 11) That the petitioner having no other efficacious and alternate remedy adequate in nature is constrained to file the instant writ petition, inter alia on the following amongst other grounds.

GROUND S :

- A) That the petitioner has not been treated according to law.
- B) That discrimination with petitioner has been made because the tenure of the petitioner was more than 18 years whereas the tenure of respondent No. 5 is about eight years.
- C) That the impugned transferred order has been made in violation of transfer and posting policy.
- D) That the impugned office order is based on malice political indulgences and consideration and is just passed to and usurp the legitimate right of the petitioner.
- E) That material injustice has been done with the petitioner.
- F) That the respondent No.5 has been posted at a distance of 4 KMS but the petitioner still remained at a distance of 26 KMS having passed more than 18 years out side in a hard and far fleeing area.

03 SEP 2013

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- G) That the vacant post was of sixteen grade but the respondent No. 5 is serving in BPS-15 which is solely the discriminatory and liable to be set aside and at naughtly on this sole ground alone.
- H) That the petitioner was discriminated and transferred without any strong and cogent reason being the efficient one thus respondent No.1 violated the norms of justices, hence the actions and inactions of the respondent No.1 needs indulgence consideration of this Hon'ble court on the subject matter.
- I) That the constitutional rights of the petitioner have fully been infringed and destroyed by the respondents by using excess of power and crossing the service law, rules and regulation by depriving the petitioner from his legal rights.
- J) That any other ground which has not been mentioned may also be permitted to raise at the time of hearing of the instant petition.

It is, therefore, most humbly prayed that on acceptance of instant writ petition the impugned office order End No. 2083-86 No. 12/DEO (Male) Dir Upper See set branch District Upper dated 19/6/2013 whereby respondent no. 5 has been transferred to GHSS Wari be

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declared as void against rules unwarranted discriminatory and against posting and transfer policy and while allowing writ petition the respondents be directed to transfer the petitioner to GHSS wari and the transfer order of respondent No. 5 be set aside and the respondents No. 1 to 4 may also be directed to act in accordance with law by transferring petitioner to GHSS Wari. Any other relief remedy which has not been specifically prayed for and deemed fit in circumstances of the case may also be awarded to the petitioner.

**INTERIM RELIEF:**

By way of interim relief the operation of the impugned order dated 19/06/2013 may very graciously be suspended till the final decision of the main writ petition.

Dated : 20/08/2013

Petitioner

Through 

Muhammad Saeed Khan  
Shangla Advocate.  
Supreme Court  
Cell # 03005746433  
Chamber Add: Room # C-6 Azim Plaza  
Makanbagh Mingora Swat.

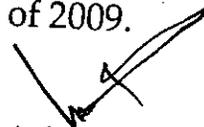
**CERTIFICATE**

Certified that no such like writ petition has earlier been filed / pending on the same subject matter before this Hon'ble court.

Advocate.

**LIST OF BOOKS :**

- 1) The constitution of Pakistan, 1973.
- 2) any other law book as per need.
- 3) The Sharia Regulations of 2009.

  
Advocate.

FILED TODAY

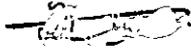
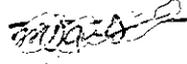
3/9/13  
Additional Registrar

03 SEP 2013

PESHAWAR HIGH COURT, MINGORA BENCH (DAR-UL-QAZA), SWAT.  
 FORM "A"  
 FORM OF ORDER SHEET

Amir J  
 26

Court of .....  
 Case No.....

Serial No of order or proceeding	Date of Order or Proceeding	Order or other proceedings with Signature of judge or Magistrate and that of parties or counsel where necessary
1	2	3
	23.10.2013	<p><u>W.P. No.382-M/2013 with Interim Relief.</u></p> <p><u>Present:-</u> Mr. M. Saeed Khan Shangla, advocate for the petitioner.                      ***</p> <p><u>MIAN FASIH-UL-MULK, J.-</u> Learned counsel for the petitioner request for withdrawal with a permission to approach the proper forum.</p> <p>This petition is dismissed as withdrawn. However, the petitioner would be at liberty to seek his legal remedy before the forum available to him under the law.</p> <p style="text-align: right;">                       JUDGE                        JUDGE                 </p> <p style="text-align: center;">                     3537                      H. A. B. K. S. M. A.                      28/10/13                      28/10/13                      28/10/13                 </p> <p style="text-align: right;">J</p>

Certified to be true copy

23/10/13  
 25/10/13

## Posting and Transfer

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 H. O. M. S. L.

## Statutory Provision.

## Section 10 of the NWFP Civil Servants Act, 1973.

**Posting and Transfer.** Every civil servant shall be liable to serve anywhere within or outside the Province, in any post under the Federal Government, or any Provincial Government or Local authority, or a Corporation or body set up or established by any such Government:-

Provided that nothing contained in this section shall apply to a civil servant recruited specifically to serve in a particular area or region:

Provided further that, where a civil servant is required to serve in a post outside a service or cadre, his terms and conditions of service as to his pay shall not be less favourable than those to which he would have been entitled if he had not been so required to serve.

## Posting/transfer policy of the Provincial Government.

- i) All the posting/transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants
- ii) All Government servants are prohibited to exert political, Administrative or any other pressures upon the posting/transfer authorities for seeking posing/transfers of their choice and against the public interest.
- iii) All contract Government employees appointed against specific posts, can not be posted against any other post.
- iv) Existing tenure of posting/transfer of three (03) years for settled areas and two (02) years for unattractive/hard areas shall be reduced to two (02) years for settled areas, 01½ years for unattractive areas and one year for hard areas.
- v) [ ]

79  
 Para-1(v) regarding months of March and July for posting/transfer and authorities for relaxation of ban deleted vide letter No SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-6-2008. Consequently authorities competent under the NWFP Government Rules of Business, 1985, District Government Rules of Business 2001, Posting/Transfer Policy and other rules for the time being in force, allowed to make Posting/Transfer subject to observance of the policy and rules.

3828

\*While making posting/transfers of officers/officials up to BS-17 from settled areas to FATA and vice versa approval of the Chief Secretary, NWFP needs to be obtained. Save Tehsildars/Naib Tehsildars within a division in respect of whom the concerned Commissioner will exercise the same power. Whereas, in case of posting/transfer of officers in BS-18 and above, from settled areas to FATA and vice versa, specific approval of the Governor, NWFP shall be obtained.

Provided that the power to transfer Political Tehsildars and Political Naib Tehsildars within FATA between different divisions shall rest in Additional Chief Secretary FATA.

All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for at least eighteen months in each grade. This should start from senior most scales/grades downwards in each scale/grade of each cadre.

Officers may be posted on executive/administrative posts in the Districts of their domicile except District Coordination Officers (D.C.Os) and DPOs/Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where the Police Station (Thaana) of his area/residence is situated.

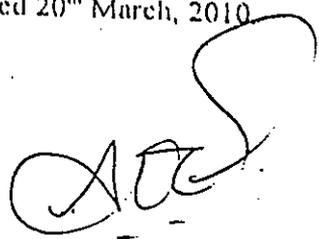
No posting/transfers of the officers/officials on detailment basis shall be made.

Regarding the posting of husband/wife, both in Provincial services, efforts where possible would be made to post such persons at one station subject to the public interest.

All the posting/transferring authorities may facilitate the posting/ transfer of the unmarried female government Servants at the station of the residence of their parents.

Officers/officials except DCOs and DPOs/SPs who are due to retire within one year may be posted on their option on posts in the Districts of their domicile and be allowed to serve there till the retirement

Issued vide circular letter No. SOR-VI/E&AD/I-4/2010/Vol-VIII dated 20<sup>th</sup> March, 2010



<sup>81</sup> DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales;

xii) In terms of Rule 17(1) and (2) read with Schedule-III of the NWFP Government Rules of Business 1985, transfer of officers shown in column 1 of the following table shall be made by the authorities shown against each officer in column 2 thereof:

Outside the Secretariat	
1. Officers of the all Pakistan Unified Group i.e. DMG, PSP including Provincial Police Officers in BPS-18 and above.	Chief Secretary in consultation with Establishment Department and Department concerned with the approval of the Chief Minister.
2. Other officers in BPS-17 and above to be posted against scheduled posts, or posts normally held by the APUG, PCS(EQ) and PCS(SG).	-do-
3. Heads of Attached Departments and other Officers in B-19 & above in all the Departments.	-do-
In the Secretariat	
1. Secretaries.	Chief Secretary with the approval of the Chief Minister.
2. Other Officers of and above the rank of Section Officers: a) Within the Same Department b) Within the Secretariat from one Department to another.	Secretary of the Department concerned. Chief secretary/Secretary Establishment.
3. Officials up to the rank of Superintendent: a) Within the same Department. b) To and from an Attached Department c) Within the Secretariat from one Department to another	Secretary of the Department concerned. Secretary of the Department in consultation with Head of Attached Department concerned. Secretary (Establishment)

xiii) While considering posting/transfer proposals all the concerned authorities shall keep in mind the following:

- a) To ensure the posting of proper persons on proper posts, the Performance Evaluation Report/annual confidential reports, past and present record of service, performance on post held presently and in the past and general reputation with focus on the integrity of the concerned officers/ officials be considered.
- b) Tenure on present post shall also be taken into consideration and the posting/transfers shall be in the best public interest.

<sup>81</sup> Added vide Urdu circular letter No: SOR-VI (IE&AD)/1-1/2005, dated 9-9-2005.

(13)

Annex (30)

This is to certify that Mr Ashfaq Ahmad CT has taken charge in this school on 01-10-2004 now he has transferred to G.H.S. Wari Distt Dir (U).

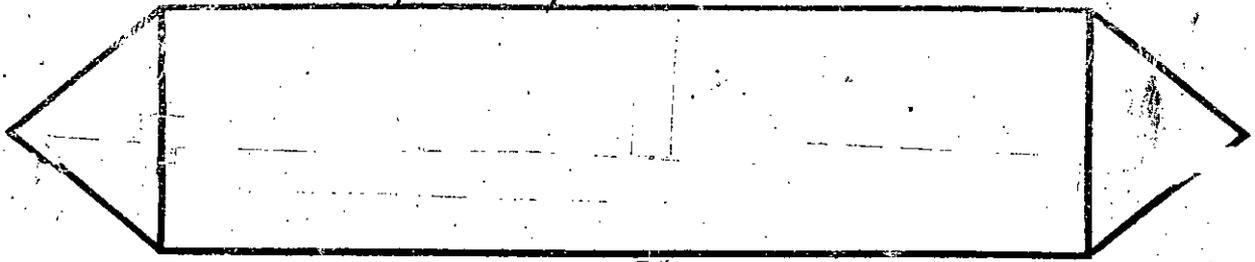
*[Signature]*  
Head Master  
G.H.S. Jugumban  
Distt. Dir Upper

15/8/2013

*[Signature]*  
CTC

Mohammad Rahman, CT	G.H.S. Wari	G.H.S. Wari	Vice No. 40
Mohammad Rahman, CT	G.M.S. Almas	G.M.S. Kalaul	Vice No. 43
Mohammad Islam, CT	G.H.S. Gamsaar	G.H.S. Gamsaar	Vice No. 42
		G.M.S. Almas	Vice No. 45
			Vice No. 44

# بعدالت



۲۰ منجانب  
کتابت لکھنؤ نام صلوات

مورخہ  
مقدمہ  
دعویٰ  
جرم

## باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کارروائی متعلقہ  
آن مقام کے لئے کیے جانے والے مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوفہ کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز  
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث فیصلہ برحلف دینے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور وصولی چیک و رسید و پیشہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق  
ذرائع پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی  
نیز وائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور  
کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ با اختیارات حاصل ہوں گے اور اس کا ساختہ  
پرواختہ منظور قبول ہوگا دوران مقدمہ میں جو شرط چاہے اور جاننا تو اپنے مقدمہ کے سبب سے وہ ہوگا۔  
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی  
مذکورہ کریں۔ لہذا وکالت نامہ لکھدیا کہ سندر ہے۔

20

ماہ

المرقوم

واہ

کے لئے منظور ہے۔

بمقام

*(Handwritten signature)*

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

Service Appeal No. .... 1524/2013

Kifayatullah SCT GHS Osorai Upper Dir ..... Appellant.

**Versus.**

- 1- The Secretary Govt: of KPK E&SE Deptt: ..... Respondent.
- 2- The Director Education Peshawar. -do-
- 3- The EDO(E&SE)Upper Dir. -do-

**Written reply on behalf of respondents. 1,2 & 3**

**Respectfully shewith.**

**PRELIMINARY OBJECTIONS.**

- 1-That the appellant has no cause of action.
- 2-That the appellant has not come to the tribunal with clean hands.
- 3-That the appellant has been estopped by his own conduct to file the instant appeal.
- 4-That the appellant has no locus standi.
- 5-That the appeal is bad due to non joinder of necessary parties.

**OBJECTIONS ON FACTS.**

- 1- Pertains to record.
- 2- Incorrect, the appellant was transferred from one station to another on his own choice. Such station where the appellant served are local station. The present station where the appellant is serving i.e. GHS Osorai is 8KM away from the appellant residency, which is a home station according to posting/ transfer policy (Distance certificate attached as Annex-A)
- 3- Correct to the extent that a post became vacant due to the retirement of Mr. Mohammad Hiyor Khan and the appellant submitted an application for transfer, but at the same time respondent No.4 also submitted transfer application for the same vacant post. As respondent No.4 was more entitled to be transferred on the same post because his distance from home station (GHS Jughabanj) was 16KM (Distance certificate attached as Annex-B) while the distance of the appellant to his present station is 8KM. Both the appellant and respondent No.4 belong to village Wari. On the basis of long distance respondent No,4 was transferred against the vacant post.
- 4- Incorrect, respondent No,4 was more entitled to be transferred to GHS Wari due to his long distance. Such transfer was done according to rules and transfer policy.
- 5- Correct to the extent that the appellant submitted departmental appeal but was rejected by the competent authority having no weight.

**OBJECTIONS ON GROUND.**

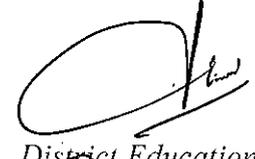
- A- Incorrect, the appellant was treated according to law rules and policy. The transfer order of respondent No.4 against the vacant post was according to the transfer policy and due to the long distance of respondent No.4 from his home to his old station.
- B- Incorrect, such transfer order is according to law and posting/transfer policy.
- C- Incorrect, the stations where the appellant served are local station. Moreover the appellant was transferred from one station to another mentioned by him in para No.1 on his own choice.
- D- Incorrect, both the appellant and respondent No.4 submitted transfer application for the Vacancy, but due to long distance respondent No,4 was transferred to the same post.
- E- Incorrect, the vacated post was a CT post and there is no ban on the transfer of PBS-15 or

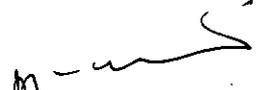
BPS-16

- F- Incorrect, no political consideration was involved in this transfer order. It was done According to posting transfer policy.
- G- Incorrect, the stations where he served are local. So for as the present station is concerned, It is a local station at the distance of 8KM from his home.
- H- The respondents also seek permission to raised additional ground at the time argument

It is therefore, humbly prayed that the instant appeal of the appellant may kindly be set aside with cost.

  
Director, Schools & Literacy Deptt;  
Khyber Pakhtun Khwa Peshawar  
Respondent No. 02.

  
District Education Officer  
(Male) Dir Upper.  
Respondent No. 03

  
Secretary,  
Govt. of Khyber Pakhtunkhwa  
(E&SE) Deptt: Peshawar.  
Respondent No. 1

**BEFORE THE HON: SERVICE TRIBUNAL PESHAWAR.**

*Service Appeal No. 1524/2013*

*Kifayatullah SCT GHS Osorai .....Appellant*

*Versus*

*Secretary Education and others .....Respondents.*

**AFFIDAVIT.**

*I Mr. Mohammad Iqbal ADO(P&D) office of the District Education Officer Upper Dir, do hereby solemnly affirm and declare on oath that the contents of the written reply submitted by respondents No. 1,2 & 3 are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Hon: Tribunal .*

*Deponent*



*Mohammad Iqbal,  
ADO(P&D)*

*NIC No.15701-2469226-3*