

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 523/2019

Date of institution ... 24.04.2019

Date of judgment ... 16.10.2019

Muhammad Tariq son of Noor Ali Khan
R/o Molla Khel Tehsil and District Bannu
(Sub-Divisional Male Officer BPS-17)
Presently serving as SDEO Thall District Hangu

... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Peshawar.
2. Secretary Elementary & Secondary Education to Government of Khyber Pakhtunkhwa Peshawar.
3. Director, Elementary & Secondary Education to Government of Khyber Pakhtunkhwa Peshawar.
4. Mr. Muhammad Irshad Sub-Divisional Education Officer (SDEO) Tehsil and District Bannu.

... (Respondents)

Appeal under section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the impugned transfer Notification Order No. SO(SM)E&SED/2-1/2019 Posting/Transfer/MC dated 18.01.2019, whereby the appellant was transferred from the post of SDEO Male Bannu (BPS-17) to the post of SDEO (Male) Thall Hangu by the respondent No. 2 purely on the basis of political influence exerted/put forth/used by respondent No. 4 through MPA namely Pakhtunyar Khan which act is not only against the posting and transfer of Education Policy of 2009 and also a misconduct under the E&D Rules 2011.

Mr. Inayat Ullah Khan, Advocate.

.. For appellant.

Mr. Kabirullah Khattak, Additional AG

.. For official respondents No. 1 to 3.

Syed Noman Ali Bukhari, Advocate.

.. For private respondent No. 4.

Mr. MUHAMMAD AMIN KHAN KUNDI

.. MEMBER (JUDICIAL)

MR. HUSSAIN SHAH

.. MEMBER (EXECUTIVE)

JUDGMENT

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Appellant

alongwith his counsel present. Mr. Kabirullah Khattak, Additional Advocate

General for official respondents No. 1 to 3 and private respondent No. 4 alongwith his counsel present. Arguments heard and record perused.

2. Brief facts of the case as per present service appeal are that the appellant and private respondent No. 4 were promoted from the post of Assistant Sub-Divisional Education Officer/Assistant District Education Officer (BPS-16) to the post of Sub-Divisional Education Officer/Assistant Director (BPS-17) (Management Cadre) alongwith 57 others vide order dated 26.09.2018. The appellant was adjusted/posted as Assistant Director (BPS-17) at the office of Directorate of Elementary & Secondary Education while the private respondent namely Muhammad Irshad was posted/adjusted as Sub-Divisional Education Officer (BPS-17) at Tall Hangu vide order dated 29.10.2018. The appellant waiting for posting was adjusted as SDEO (Male) Bannu vide order dated 24.12.2018. Later on, the appellant was transferred from the post of SDEO (Male) Bannu to the post of SDEO (Male) Tall Hangu while private respondent No. 4 Muhammad Irshad was transferred from the post of SDEO (M) Tall Hangu to the post of SDEO (Male) Bannu at the place of the appellant vide order dated 18th January 2019. The appellant challenged the impugned order dated 18th January 2019 before the worthy High Court in Writ Petition and the worthy High Court disposed of the Writ Petition and treated the same as representation and sent to the departmental authority for decision in accordance with law within a period of one month from the date of receipt of copy of order vide judgment dated 23.01.2019. The departmental authority has not decided the same within statutory period hence, the present service appeal on 24.04.2019.

3. Respondents were summoned who contested the appeal by filing written reply/comments.

4. Learned counsel for the appellant contended that the appellant after promotion to (BPS-17) was posted as Assistant Director (BPS-17) at

M. Bannu
15.10.2019

Directorate of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar vide order dated 29.10.2018. It was further contended that the appellant was transferred to Bannu as SDEO (Male) vide order dated 24.12.2018 and assumed the charge. It was further contended that again the appellant was transferred from the post of SDEO (Male) Bannu to SDEO (Male) Tall Hangu while the private respondent No. 4 namely Muhammad Irshad was posted/adjusted from the post of SDEO (Male) Tall Hangu to the post of SDEO (M) Bannu at the place of the appellant vide order dated 18.01.2019 without completing normal tenure by the appellant. It was further contended that the appellant challenged the said order through Writ Petition which was treated as departmental appeal with the direction to departmental authority to decide the same within one month but the departmental authority has not decided the same. It was further contended that the impugned order is violate of Article 2-A, 4 and 25 of the Constitution of Islamic Republic of Pakistan. It was further contended that the impugned order dated 18.01.2019 has passed by the competent authority against the transfer posting policy as the appellant was transferred from Bannu to Thall Hangu just after 20 days. It was further contended that the impugned order was passed by the competent authority on political influence therefore, it was vehemently contended that the impugned order is illegal, malafide without recommendation of Placement Committee and liable to be set-aside and prayed for acceptance of appeal.

5. On the other hand, learned Additional Advocate General for official respondents No. 1 to 3 and learned counsel for private respondent No. 4 opposed the contention of learned counsel for the appellant and contended that as per merit list of promotion order dated 26.09.2018, the private respondent was at serial no. 9 while the appellant was at serial no. 49 therefore, the competent authority has rightly passed the impugned order on the basis of merit list. It was further contended that the impugned transfer order of the appellant

M. Anwar
16.10.2019

and private respondent has been passed in accordance with the policy and rules and the same is not suffering from legal defects. It was further contended that the appellant was posted at Bannu due to political influence therefore, the competent authority has rightly passed the impugned order dated 18.01.2019. It was further contended that the appellant has also been transferred from the post of SDEO (Male) Tall Hangu to the post of SDEO (Male) Shangla vide order dated 13.09.2019 during the pendency of the present service appeal but neither the appellant has challenged the said order through departmental appeal nor has challenged the same in the present service appeal therefore, it was vehemently contended that the present service appeal has become infructuous. It was further contended that under Section 10 of the Civil Servants Act, the competent authority is empowered to transfer a civil servant from one place to another place to meet the exigency of service on administration provided the terms and conditions of services were not adversely affected and the civil servant has no vested right to claim posting or transfer to any particular place at his choice nor he has any right to continue to hold at particular post at a particular place therefore, it was vehemently contended that the appeal has no force and prayed for dismissal of appeal.

6. Perusal of the record reveals that the appellant and private respondent were promoted from the post of Assistant Sub-Divisional Education Officer/Assistant District Education Officer (BPS-16) to the post of Sub-Divisional Education Officer/Assistant Director (BPS-17) (Management Cadre) alongwith 57 others vide order dated 26.09.2018. The appellant was shown in the said promotion order at serial no. 49 while the private respondent was shown at serial no. 9. The record further reveals that the appellant was adjusted/posted as Assistant Director (BPS-17) at the office of Directorate of Elementary & Secondary Education while the private respondent namely Muhammad Irshad was posted/adjusted as Sub-Divisional Education Officer

M. Khan
16.10.2019

(BPS-17) at Tall Hangu vide order dated 29.10.2018. The record further reveals that the appellant waiting for posting was transferred as SDEO (Male) Bannu vide order dated 24.12.2018. The record further reveals that the appellant was transferred from the post of SDEO (Male) Bannu to the post of SDEO (Male) Tall Hangu while private respondent No. 4 Muhammad Irshad was transferred from the post of SDEO (M) Tall Hangu to the post of SDEO (Male) Bannu at the place of the appellant vide order dated 18th January 2019. The record further reveals that after availing remedy of departmental appeal, the appellant filed the present service appeal on 24.04.2019 however, during the pendency of the present service appeal, the respondent-department again transferred the appellant from the post of SDEO (Male) Tall Hangu to the post of SDEO (Male) Shangla vide order dated 13.09.2019 but the appellant has neither challenged the said transfer order dated 13.09.2019 through departmental appeal nor has challenged the same in the instant service appeal. Meaning thereby, that the present service appeal against the impugned transfer order dated 18.01.2019 become infructuous. Furthermore, under Section-10 of the Civil Servants Act, the competent authority is empowered to transfer a civil servant from one place to another place to meet the exigency of service on administration provided the terms and conditions of services were not adversely affected and the civil servant has no vested right to claim posting or transfer to any particular place at his choice nor he has any right to continue to hold at particular post at a particular place therefore, the appeal has no force which is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
16.10.2019


(HUSSAIN SHAH)
MEMBER


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

Service Appeal No. 523/2019

11.10.2019

Appellant alongwith his counsel present. Mr. Kabirullah Khattak, Additional AG for official respondents No. 1 to 3 and private respondent No. 4 alongwith his counsel present. Arguments heard. To come up for order on 14.10.2019.

(HUSSAIN SHAH)
MEMBER

MA
(M. AMIN KHAN KUNDI)
MEMBER

14.10.2019

Appellant alongwith his counsel present. Mr. Kabirullah Khattak, Additional AG for official respondents No. 1 to 3 and private respondent No. 4 alongwith his counsel present. The learned Member Judicial Mr. Muhammad Amin Khundi is on leave therefore, order could not be announced. Case to come up for order on 16.10.2019 before D.B.

(HUSSAIN SHAH)
MEMBER

MA
(M. AMIN KHAN KUNDI)
MEMBER

16.10.2019

Appellant alongwith his counsel present. Mr. Kabirullah Khattak, Additional Advocate General for official respondents No. 1 to 3 and private respondent No. 4 alongwith his counsel present. Arguments heard and record perused.

Vide our detailed judgment of today consisting of five pages placed on file, the appeal has no force which is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
16.10.2019

SHAH
(HUSSAIN SHAH)
MEMBER

Muhammad Amin
(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

18.09.2019

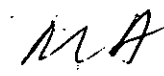
Counsel for the appellant present. Mr. Ziaullah, DDA for official respondents and counsel for private respondents present. Proper D.B is not available, therefore, the case is adjourned for arguments on 23.09.2019 before D.B.


Reader

23.09.2019


Due to general strike on the call of Khyber Pakhtunkhwa Bar Council learned counsel for the appellant is not in attendance. Mr. Riaz Paindakhel learned Assistant Advocate General for the respondents present Adjourned. To come up for arguments on 3.10.2019 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

03.10.2019

Bench incomplete. Adjourn. To come up on 11.10.2019 before D.B.


Reader

06.08.2019

Appellant alongwith his counsel and Mr. Ziaullah, DDA alongwith Mr. Shakeel Ahmad, Supdt for official respondents and private respondent No.4 in person present.

Para-wise comments have been submitted by the representative of respondents No. 1 to 3 which are placed on record.

To come up for arguments before D.B on 21.08.2019 of which Mr. Muhammad Hamid Mughal and Mr. Ahmad Hassan, Members are not the constituents.



Member


Chairman

21.08.2019

Clerk of counsel for the appellant and Mr. Kabirullah Khattak, Additional AG for official respondents No. 1 to 3 and private respondent No. 4 alongwith his counsel present. Clerk of counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is not available today. Adjourned to 03.09.2019 for arguments before D.B.

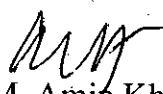

(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

03.09.2019

Appellant with counsel present. Mr. Usman Ghani learned District Attorney alongwith Mr. Shakeel Superintendent for the official respondents and private respondent No.4 in person present. Private respondent No.4 seeks adjournment as his counsel is busy before Hon'ble High Court Peshawar. Adjourned. To come up for arguments on 18.09.2019 before D.B.

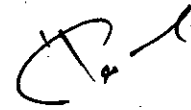

(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

01.08.2019

Counsel for the appellant and Asst: AG alongwith Mr. Irfanullah, Assisant for respondents present. Upon ~~query~~ of this Tribunal that whether the appellant can be posted in his domicile district, learned counsel for the appellant seeks adjournment for proper assistance. Adjourn. Case to come up for arguments on 05.08.2019 before D.B.


Member


Member

05.08.2019

Appellant alongwith clerk to counsel for the appellant present. Mr. Zia Ullah learned Deputy District Attorney for official respondents present. Private respondent with counsel present. Clerk to counsel for the appellant seeks adjournment on the ground that learned counsel for the appellant has gone to Islamabad. Learned Deputy District Attorney as well as learned counsel for private respondent raised reservations in case of further adjournment in the present case. Posting transfer order has been made impugned in the present service appeal and interim relief was also granted hence adjourned by way of last chance. To come up for arguments on 06.08.2019 before D.B.


Member


Member

523/19

17.07.2019

Appellant with counsel, Asstt. AG for respondents No. 1 to 3 and private respondent No. 4 with counsel present.


The respondent No. 4 has submitted reply to the appeal alongwith cost of Rs. 1000/- The representatives of respondents No. 1 to 3 are again absent today.

On the last date last opportunity was granted to respondents for submission of written reply/comments. The matter is, therefore, posted for arguments before D.B on 31.07.2019.


Chairman

31.07.2019

Appellant with counsel present. Mr. Riaz Khan Paindakheil learned Assistant Advocate General alongwith Zafar Ullah Assistant present. Private respondent No.4 in person present and seeks adjournment. Adjourn. To come up for arguments on 01.08.2019 before D.B.


Member


Member

19.06.2019

Appellant in person, Mr. Kabirullah Khattak, Additional AG alongwith Mr. Sahkeel, Superintendent for official respondents No. 1 to 3 and private respondent No. 4 in person present. Representative of the department as well as private respondent No. 4 requested for further adjournment to submit written reply. Last opportunity is granted. Case to come up for written reply/comments on 03.07.2019 before S.B.



(Muhammad Amin Khan Kundi)
Member

03.07.2019

Appellant with counsel present. Mr. Muhammad Jan learned Deputy District Attorney for the respondents present. Private respondent No.4 in person present. Written reply not submitted. None present on behalf of the official respondents No. 1 to 3 nor written reply submitted, therefore notice be issued to the representative of the official respondents No. 1 to 3 to attend the court and submit written reply on the next date positively. Last opportunity is extended with the cost of Rs. 1000/-. Adjourned. To come up for written reply/comments on 17.07.2019 before S.B.



Member

17.05.2019

Learned counsel for the appellant present. Mr. Usman Ghani learned District Attorney alongwith Shakeel Ahmad Superintendent present. Representative of the respondent department seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 24.05.2019 alongwith arguments on application for interim relief before S.B.


Member

23.05.2019

Appellant in person present. Written reply not submitted. Shakeel Ahmad Superintendent (for respondent No.2) and Hayat AD (for respondent No.3) and private respondent No.4 in present and requested for time to furnish written reply/comments. Granted. To come up for reply/comments on 30.05.2019 before S.B.


Member

30.05.2019

Counsel for the appellant, Addl. AG alongwith Muhammad Azeem, AD for the respondents present.

Despite two adjournments the respondents are yet to submit the requisite reply/comments. Adjournment is once again requested. Adjourned to 19.06.2019 for submission of written reply/comments as a last chance.

Chairman 

03.05.2019

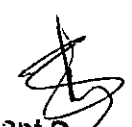
Counsel for the appellant present.

Contends that the appellant was promoted to the post of Sub Division Education Officer BPS-17 on 26.09.2018 and consequently was adjusted as Assistant Director, Directorate of Elementary & Secondary Education vide notification dated 29.10.2018. On 08.11.2018 the appellant was declared surplus alongwith eight other officers and was recommended for adjustment against the SDEO post which was occupied by the Teaching Cadre. On 24.12.2018 the requisite adjustment was made and appellant was posted as SDEO (Male) Bannu. In less than a month the appellant was transferred from SDEO (Male) Bannu and was posted as SDEO (Male) Thall. It was the argument of the learned counsel that the last transfer of appellant was not only politically motivated but was also in disregard to the posting/transfer policy of the Provincial Government wherein the normal tenure of posting is prescribed to be two years. The appellant preferred a Writ Petition before the Honourable Peshawar High Court at Bannu Bench which was sent to the respondents for treatment as departmental appeal on 23.01.2019. The appeal as such remained un-responded.

In view of the averments and contentions of learned counsel for the appellant, instant appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 17.05.2019 before S.B.

The appeal is accompanied by an application for suspension of impugned notification dated 18.01.2019. Notice of the application be also given to the respondents for the date fixed.




Chairman


Appellant Deposited
Security & Process Fee

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 523/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	24/04/2019	<p>The appeal of Mr. Muhammad Tariq Khan presented today by Mr. Inayatullah Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR 24/4/19</p>
2-	25/04/19	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>03/05/19</u></p> <p> CHAIRMAN</p>

25/04/19

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK, PESHAWAR.

S.A.No. 523/2019

Muhammad Tariq..... Appellant

Versus

The Government of Khyber Pakhtunkhwa
& others..... Respondents

I N D E X

S.No.	Description of documents.	Annexure	Pages.
1	Grounds of appeal.		1-6
2	Application for suspension		7-8
2	Affidavit.		9
3	Addresses of the parties.		10
4	Copy of notification dated 26.09.2018	A	11-12
5	Copy of notification dated 29.10.2018	B	13-18
6	Copy of order dated 08.11.2018	C	19
7	Copy of notification dated 24.12.2018	D	20-22
8	Copy of notification dated 18.01.2019	E	23
9	Copy of writ petition alongwith order dated 23.01.2019	F-G	24-31
10	Wakalatnama.		32

Appellant

through



Inayat Ullah Khan
Advocate High Court
LL.M (U.K)
Cell: 0333-9227736

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK, PESHAWAR.Service Appeal No. 523 /2019Khyber Pakhtukhwa
Service TribunalDiary No. 658Dated 24-4-2019

Muhammad Tariq son of Noor Ali Khan
R/o Molla Khel Tehsil and District Bannu
(Sub Divisional Male Officer BPS-17)
Presently serving as SDEO Thall District Hangu..... Appellant

Versus

- 1) The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Peshawar.
- 2) Secretary Elementary and Secondary Education to Government of Khyber Pakhtukhwa Peshawar.
- 3) Director, Elementary and Secondary Education to Government of Khyber Pakhtukhwa Peshawar.
- 4) Mr. Muhammad Irshad Sub Divisional Education officer (SDEO) Tehsil and District Bannu.

..... Respondents

Appeal u/s 4 of the K.P Service Tribunal Act, 1974 against the impugned transfer Notification Order No. SO(SM)E&SED/2-1/2019/Posting/Transfer/MC dated 18.01.2019, whereby the appellant was transferred from the post of SDEO Male Bannu (BPs-17) to the post of SDEO (Male) Thall Hangu by the respondent No.2 purely on the basis of political influence exerted/put forth /used by respondent No.4 through MPA namely Pakhtunyar Khan which act is not only against the posting and transfer of Education Policy of 2009 and also a misconduct under the E&D Rules 2011.

Filed to-day

Registrar

24/4/19

PRAYER:

On acceptance of this appeal, the impugned Notification Order No.SO(SM)E&SED/2-1 /2019 /Posting /Transfer /MC dated 18.01.2019 may kindly be set aside by restoring earlier notification Order No. SO(SM)E&SED /2-1/ 2018 /Posting /Transfer/MC dated 24.12.2018 vide which the appellant was posted as SDEO (BPs-17) (Male) at District Bannu with further directions to the respondent No.1 to initiate disciplinary proceedings against all those found involved in securing posting and transfer orders on the basis of political influence which is a misconduct under the relevant service rules.

Respectfully Sheweth;

Brief facts giving rise to the instant appeal are as under:-

- 1) That the appellant was appointed as ASDEO in BPS-16 and later on was promoted to the post of SDEO (BPS-17) vide order Notification No.SO(SM)E&SED/3-2/2018/Promotion of ASDEOs (BS-16) to SDEOs (BS-17) dated 26.09.2018.

(Copy of notification dated 26.09.2018 is attached as Annexure-A at Page No 11-12).

- 2) That the appellant after promotion to (BPS-17) was posted as Assistant Director (BPS-17) Directorate of Elementary & Secondary Education Khyber Pakhtukhwa Peshawar vide Notification No. SO(SM)E&SED/3-2/2018/Promotion of ASDEOs (BS-16) to SDEOs (BS-17). Dated 29.10.2018 issued by respondent No.2.

(Copy of notification dated 29.10.2018 is attached as Annex-B at Page No. 13-18).

- 3) That the appellant after posting as Assistant Director (BPS-17) Directorate of Elementary & Secondary Education Khyber Pakhtukhwa Peshawar was declared as surplus vide notification order No.1864/A-12/Estab:1/Promotion of ASDEO/ADEO to SDEO/AD. Dated 8.11.2018 and appellant was deputed as officer on special duty (OSD) for a period of 2 months but no formal order was issued to this effect.

(Copy of order dated 08.11.2018 is attached as Annexure C at Page No 19).

- 4) That the appellant vide notification order No.SO(SM)E&SED /2-1/ 2018 /Posting /Transfer/MC dated 24.12.2018 was again posted as SDEO (Male) Bannu and assumed the charge as such at District Bannu.

(Copy of notification dated 24.12.2018 is attached as Annexure-D at Page No 20 - 22).

- 5) That once again the appellant was transferred vide notification No. SO(SM)E&SED /2-1/ 2019 /Posting /Transfer/MC dated 18.01.2019 from the post of SDEO (Male) Bannu to SDEO (Male) Thall Hangu against the posting and transfer of Education Police 2009, on the basis of Political influence exerted/ put forth/ used by respondent No.4 through MPA of KP Pakhtunyar Khan.

(Copy of notification dated 18.01.2019 is attached as Annexure-E at Page No 23).

- 6) That earlier the appellant approached to the Honorable Peshawar High Court Bannu Bench for cancellation of the impugned order through writ petition No. 62/2019 titled Muhammad Tariq..VS.. Govt of KP and others which was converted into departmental representation/ appeal with the directions to the respondents to dispose off the same

within a period of one month from the date of receipt of the order.

(Copy of writ petition alongwith order dated 23.01.2019 is attached as Annexure F & G at Pages No. 24 - 31).

- 7) That since writ petition was converted into departmental representation with the directions to the respondents to dispose off the same within a period of one month from the date of receipt of this order but unfortunately no response was provided to the appellant despite lapse of statutory period of 90 days, hence presents this service appeal within 30 days which is well within time from the date of sending the writ petition to the respondents for its disposal.
- 8) That the appellant being aggrieved from the impugned transfer Notification Order No. SO(SM)E&SED/2-1/2019/Posting/Transfer/MC dated 18.01.2019, prefers the instant service appeal for setting aside the above-mentioned order on the following amongst other grounds:-

GROUND FOR APPEAL:

- a. That the impugned order is violative of Article 2-A, 4 and 25 of the Constitution of Islamic Republic of Pakistan, also against the National Education Policy 2009 and the E&D Rules 2011 hence not tenable in the eyes of law.
- b. That the appellant was time and again/ frequently transferred for more then 3 times within a short span of 3 to 4 months which act is not only arbitrary, capricious but also violative of the mandatory provisions of law which needs to be adhered in its letter and spirit that posting and transfer order shall only be made in the public interest without exerting/ using any political influence as in the instant case

respondent No.4 succeeded in exerting/ using his political clout/ influence through Member Provincial Assembly of KP namely Pakhtunyar Khan which is a serious misconduct on his part and also on the part of competent authority and such practice of exerting political influence in posting and transfer orders has been time and again deprecated by the August Supreme Court of Pakistan and various High Courts of this country including the Services Tribunals.

- c. That the impugned transfer Notification Order No. SO(SM)E&SED/2-1/2019/Posting/Transfer/MC dated 18.01.2019, is smacked off malafide, ill will and purely influenced on the basis of political consideration and the concept of good administration in departments viz a viz posting and transfer of its employees had been eroded on while the public confidence would be shaken on the other.
- d. That it was time and again emphasized in the National Education Policy 2009/ 2017 that decline in education system has resulted from exerting political interference and using corrupt practices in recruitments, posting and transfers, hence such practice of securing desired posting and transfer shall be curbed with iron hand and on this score alone the impugned order as referred to in the heading of this appeal is liable to set at naught in terms of the referred service rules and regulations in the body of this appeal.

It is pertinent to refer to a reported judgment reported in ***2009 PLC (CS) 891*** it was held "***plaintiff had been transferred four times since august 2008, which ex facie, appeared to be violative of the principle of policy***

governing the transfer of the government servants--- such indiscriminate action could be taken note of by the court--- Case of ad interim injunction having been made out, order of defendant/ authority transferring the plaintiff was suspended--- No further transfer would be ordered by the defendants during pendency of application"

Keeping in view, what has been stated above, it is, therefore, humbly prayed that on acceptance of this appeal, the impugned Notification Order No.SO(SM)E&SED/2-1 /2019 /Posting /Transfer /MC dated 18.01.2019 may kindly be set aside by restoring earlier notification Order No. SO(SM)E&SED /2-1/ 2018 /Posting /Transfer/MC dated 24.12.2018 vide which the appellant was posted as SDEO (BPs-17) (Male) at District Bannu with further directions to respondent No.1 to initiate disciplinary proceedings against all those found involved in securing posting and transfer orders on the basis of political influence at their whims which is a misconduct under the relevant service rules.

Any other relief, which has not been specifically asked for and to whom the appellant found entitled may also be granted.


Appellant

through



Inayat Ullah Khan
Advocate High Court
LL. M (U.K)

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK, PESHAWAR.

CM No. _____/2019

IN

S.A.No. _____/2019

Muhammad Tariq..... Appellant

Versus

The Government of Khyber Pakhtunkhwa
& others..... Respondents

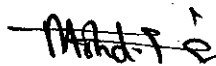
**APPLICATION FOR SUSPENSION OF
IMPUGNED NOTIFICATION ORDER
NO.SO(SM)E&SED/2-1 /2019
/POSTING /TRANSFER /MC DATED
18.01.2019.**

Respectfully Sheweth:-

1. That the above titled is being filed before this Honorable Tribunal which has not been fixed for hearing.
2. That the accompanying service appeal may kindly be treated as part and parcel of this application.
3. That through the instant misc application the appellant is seeking suspension of the impugned Notification Order No.SO(SM)E&SED/2-1 /2019 /Posting /Transfer /MC dated 18.01.2019 by restoring the earlier notification SO(SM)E&SED /2-1/ 2018 /Posting /Transfer/MC dated 24.12.2018 vide which the appellant was posted as SDEO (BPS-17 Male Bannu) in the interest of justice, fair play and equity.

4. That balance of convenience also lies in favour of appellant having a good prima facie case and appellant is sanguine about its success.

It is therefore humbly prayed that on acceptance of this application the impugned posting transfer impugned Notification Order No.SO(SM)E&SED/2-1 /2019 /Posting /Transfer /MC dated 18.01.2019 be suspended and the earlier posting order dated 24.12.2018 may kindly be restored till the final disposal of the accompanying service appeal.



Appellant

through



Inayat Ullah Khan
Advocate High Court
LL. M (U.K)

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK, PESHAWAR.

S.A.No.____/2019

Muhammad Tariq..... Appellant

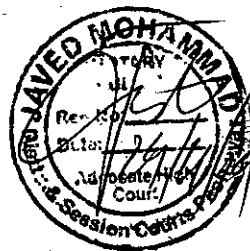
Versus

The Government of Khyber Pakhtunkhwa
& others..... Respondents

AFFIDAVIT

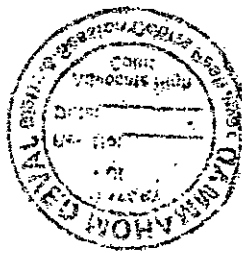
I, **Muhammad Tariq** son of Noor Ali Khan R/o Molla Khel Tehsil and District Bannu (Sub Divisonal Male Officer BPS-17) Presently serving as SDEO Thall District Hangu do hereby affirm and declare on oath that the contents of the **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

ATTESTED



M.A. Fe

Deponent



ALLIED

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK, PESHAWAR.

S.A.No. _____/2019

Muhammad Tariq..... Appellant

Versus

The Government of Khyber Pakhtunkhwa
& others..... Respondents

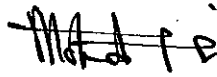
ADDRESSES OF THE PARTIES

APPELLANT:

Muhammad Tariq son of Noor Ali Khan
R/o Molla Khel Tehsil and District Bannu
(Sub Divisonal Male Officer BPS-17)
Presently serving as SDEO Thall District Hangu

RESPONDENTS:

- 1) The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Peshawar.
- 2) Secretary Elementary and Secondary Education to Government of Khyber Pakhtukhwa Peshawar.
- 3) Director, Elementary and Secondary Education to Government of Khyber Pakhtukhwa Peshawar.
- 4) Mr. Muhammad Irshad Sub Divisional Education officer (SDEO) Tehsil and District Bannu.


Appellant

through



Inayat Ullah Khan
Advocate High Court
LL.M (U.K)



Ano "A" (11)

GOVERNMENT OF KHYBER PAKHTUNKHWA

ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone: 091-9210480, Fax # 091-9211419

Dated Peshawar the September 26, 2018.

NOTIFICATION

NO.SO(SM/DE&SED/3-2/2018/Promotion of ASDEOs (BS-16) to SDEOs (BS-17): Consequent upon the recommendation of Departmental Promotion Committee, the Competent Authority/Chief Secretary Khyber Pakhtunkhwa is pleased to promote the following fifty nine (59) Assistant Sub-Divisional Education Officers/ Assistant District Education Officers (BS-16) to the post of Sub-Divisional Education Officers/ Assistant Directors (BS-17) (Management Cadre) in the Elementary & Secondary Education Department on regular basis with immediate effect:

S.No.	Name of Officer	S.No.	Name of Officer
1	Gulam Habib	2	Mehboob Elahi
3	Muhammad Farooq	4	Abdul Qayyum Khan
5	Muhammad Zahid Khan	6	Shams-ul-Islam Niaz
7	Sharafat Khan	8	Mehmood Iqbal
9	Muhammad Irshad	10	Muhammad Anwar
11	Zia Ullah	12	Shams Ur Rehman
13	Ifikhar Ahmed	14	Ghulam Sarwar
15	Muhammad Zubair	16	Fazali Khuda
17	Muhammad Rehmat Shah	18	Muhammad Sohail Khan
19	Ali Haider	20	Muhammad Raza Shah
21	Muhammad Islam	22	Dil Nawaz Khan
23	Fida Muhammad	24	Muhammad Aftab
25	Hayat Khan	26	Muhammad Ajmal
27	Salih Muhammad	28	Waheedullah Shah
29	Khalid Naseem	30	Gul Faraz
31	Abdur Rehman Rashid	32	Abdul Wahab
33	Imtiaz Khan	34	Hameedullah
35	Muhammad Abid	36	Muhammad Azam
37	Raees Khan	38	Adil Muhammad
39	Shah Jehan Khan	40	Love Dan
41	Amir Badshah	42	Muhammad Hamayun
43	Niaz Wali Khan	44	Muhammad Saleem
45	Shafiq Ur Rehman	46	Ahmed Ullah

ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA

ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone: 091-9210480, Fax # 091-9211419

12

47	Races ur Rehman	48	Muhammad Zarif
49	Muhammad Tariq	50	Hamid Rasool
51	Qadir Shah	52	Muhammad Arshad
53	Irshad Khan	54	Syed Attaullah Shah
55	Shehzad Nadeem	56	Habib ur Rehman
57	Abdul Samad	58	Chanzeb
59	Raja Babu Jahangir		

2. In terms of Section 6(2) of Khyber Pakhtunkhwa Civil Servant Act, 1973 read with rule-15(1) of the Khyber Pakhtunkhwa Civil Servant (Appointment, Promotion & Transfer) rules, 1989, the above named officers, on their promotion, shall be on probation for a period of one year extendable for further one year as per rules.

3. Adjustment of the above named officers shall be notified later on:

SECRETARY
E&SE Department
Khyber Pakhtunkhwa

Endst: of even No. & Date :-

Copy forwarded to the:

1. Accountant General Khyber Pakhtunkhwa, Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
3. District Education Officers (Male) Concerned.
4. District Accounts Officers Concerned.
5. PS to Chief Secretary Khyber Pakhtunkhwa, Peshawar.
6. PS to Minister E&SE Khyber Pakhtunkhwa Peshawar.
7. In-charge EMIS, E&SE Department for uploading at official website.
8. PS to Secretary E&SE Department, Khyber Pakhtunkhwa.
9. Officers concerned.
10. Office order file.

ATTESTED

Mian Hussain Din 26/9/018
(MIAN HUSSAIN DIN)
SECTION OFFICER (SCHOOLS MALE)



Ank "B" (13)

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

Dated Peshawar the October 29, 2018.

NOTIFICATION

NO.SO(SME&SED/3-2/2018/Promotion of ASDEOs (BS-16) to SDEOs (BS-17):

Consequent upon their promotion to the post of Sub-Divisional Education Officer Male (BS-17) vide notification of even number dated 26.09.2018, the following SDEOs are hereby posted/adjusted on the posts & stations as mentioned against each:

S#	Name of candidate	Posted as
1	Mr. Zia Ullah	Assistant Director (BS-17), Directorate of E&SE
2	Mr. Shah Jehan Khan	Assistant Director (BS-17), Directorate of E&SE
3	Mr. Muhammad Arshad	Assistant Director (BS-17), Directorate of E&SE
4	Mr. Irshad Khan	SDEO (BS-17) Town-IV Peshawar
5	Mr. Muhammad Zahid Khan	Assistant Director (BS-17), Directorate of E&SE
6	Mr. Muhammad Sohail Khan	Assistant Director (BS-17), Directorate of E&SE
7	Mr. Muhammad Aftab	Assistant Director (BS-17), Directorate of E&SE
8	Mr. Imtiaz Khan	SDEO (BS-17) Swat
9	Mr. Muhammad Saleem	SDEO (BS-17) Pabbi Nowshera
10	Mr. Shams-ul-Islam Niaz	SDEO (BS-17) Kabal Swat
11	Mr. Muhammad Zubair	SDEO (BS-17) Takhtbai Mardan
12	Mr. Hayat Khan	Assistant Director (BS-17), Directorate of E&SE
13	Mr. Ahmad Ullah	SDEO (BS-17) Shabqadar
14	Mr. Muhammad Anwar	SDEO (BS-17) Mardan
15	Mr. Fazl-e-Khuda	SDEO (BS-17) Khadokhel Buner
16	Mr. Amir Badshah	SDEO (BS-17) Mandan Buner
17	Mr. Fida Muhammad	SDEO (BS-17) Town-III Peshawar
18	Mr. Salih Muhammad	SDEO (BS-17) Daggar Buner
19	Mr. Abdul Wahab	SDEO (BS-17) Lahore Swabi
20	Mr. Muhammad Abid	SDEO (BS-17) Rajjar Swabi
21	Mr. Adil Muhammad	SDEO (BS-17) Katlang Mardan
22	Mr. Niaz Wali Khan	SDEO (BS-17) Ghazi Haripur

ATTESTED



(14)

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

23	Mr. Mehboob Elahi	Assistant Director (BS-17), Directorate of E&SE
24	Mr. Shehzad Nadeem	SDEO (BS-17) Darosh Chitral
25	Mr. Muhammad Farooq	SDEO (BS-17) Karak
26	Mr. Dil Nawaz	SDEO (BS-17) Kohistan
27	Mr. Gul Faraz	SDEO (BS-17) Bahrain Swat
28	Mr. Muhammad Humayun	SDEO (BS-17) Daraban D.I. Khan
29	Mr. Abdul Qayum Khan	Assistant Director (BS-17), Directorate of E&SE
30	Mr. Ifikhar Ahmed	SDEO (BS-17) Battagram
31	Mr. Chanzeb	SDEO (BS-17) Alai Battagram
32	Mr. Sharafat Khan	SDEO (BS-17) Bisham Shangla
33	Mr. Mehmood Iqbal	SDEO (BS-17) Paharpur D.I. Khan
34	Mr. Khalid Naseem	SDEO (BS-17) Prova D.I. Khan
35	Mr. Muhammad Zarif	SDEO (BS-17) D.I. Khan
36	Mr. Muhammad Irshad	SDEO (BS-17) Tall Hangu
37	Mr. Muhammad Rehman Shah	SDEO (BS-17) Bakka Khel Bannu
38	Mr. Waheed Ullah Shah	SDEO (BS-17) Domel Bannu
39	Mr. Muhammad Tariq	Assistant Director (BS-17), Directorate of E&SE
40	Mr. Hamid Rasool	SDEO (BS-17) Bannu
41	Mr. Ali Haider	SDEO (BS-17) Samar Bagh Dir Lower
42	Mr. Muhammad Raza Shah	SDEO (BS-17) Adenzai Dir Lower
43	Mr. Muhammad Islam	SDEO (BS-17) Munda Dir Lower
44	Mr. Muhammad Ajmal	SDEO (BS-17) Oghi Mansehra
45	Mr. Shafiq Ur Rehman	SDEO (BS-17) Darban Mansehra
46	Mr. Raees Ur rehman	Assistant Director (BS-17), Directorate of E&SE
47	Mr. Abdus Samad	SDEO (BS-17) Baffa Mansehra
48	Mr. Raja Babu Jehangir	Assistant Director (BS-17), Directorate of E&SE
49	Mr. Shams Ur Rehman	SDEO (BS-17) Balakot Mansehra
50	Mr. Abdur Rehman Rashid	SDEO (BS-17) Serai Naurang Lakki Marwat
51	Mr. Qadir Shah	SDEO (BS-17) Lakki Marwat
52	Mr. Habib Ur Rehman	SDEO (BS-17) Kulachi D.I. Khan

ATTESTED



(15)

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

53	Mr. Hameed Ullah	SDEO (BS-17) Palas Kohistan
54	Mr. Muhammad Azam	SDEO (BS-17) Sedu Sharif Swat
55	Mr. Ghulam Sarwar	SDEO (BS-17) Balambat Dir Lower
56	Mr. Ghulam Habib	SDEO (BS-17) Dir Lower
57	Syed Atta Ullah Shah	Assistant Director (BS-17), Directorate of E&SE
58	Mr. Rases Khan	SDEO (BS-17) Matta Swat
59	Mr. Love Dan	SDEO (BS-17) Sheringal Dir Upper

CONSEQUENTIAL TRANSFER

S.No	Name of candidate	Posted as
60	Mr. Muhammad Arif, SS (Economics) BS-17 working as SDEO (M) Town-IV	SS (Economics) BS-17 GHSS Nizampur, Nowshera
61	Mr. Ghazi Bacha SS (Maths) BS-17 working as SDEO (M), Lahore Swabi	SS (Maths) BS-17 GHSS Kabgani, Swabi
62	Mr. Wisal Muhammad HM BS-17 working as SDEO (M) Katlang Mardan	HM BS-17 GHS Sohbat Abad, Mardan
63	Mr. Abdul Haleem SS (Islamiat) BS-17 working as SDEO (M) Mardan	SS (Islamiat) BS-17 GHSS Gujar Garhi, Mardan
64	Syed Arshad Hussain Shah SS (English) BS-17 working as SDEO (M) Takht Bhai, Mardan	Instructor (BS-17) RJTE (Male) Mardan
65	Mr. Fazle Khaliq SS (English) BS-17 working as SDEO (M) Saidu Sharif, Swat	SS (English) BS-17 GHSS Mianandim, Swat
66	Mr. Inyat Ullah HM BS-17 working as SDEO (M) Matta Swat	HM BS-17 GHS Sambat Swat
67	Mr. Inyat Ullah HM BS-17 working as SDEO (M) Charbagh Swat	HM BS-17 GHS Manpatai Swat
68	Mr. Liaqat Ali HM BS-17 working as SDEO (M) Khawaza Khela Swat	HM BS-17 GHS Laikot Swat
69	Mr. Majeed Ullah HM BS-17 working as SDEO (M) Kabal Swat	HM BS-17 GHS Ghalooch Swat
70	Mr. Muhammad Zahid SS (Statistics) BS-17 working as SDEO (M) Puran Shangla	SS (Statistics) BS-17 GHSS Butyal Shangla

ATTESTED



(16)

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

71	Mr. Muhammad Pervez DPE BS-17 working as SDEO (M) Shangla	DPE BS-17 GHSS Olandar Shangla
72	Mr. Akhtar Naeem SS (Urdu) BS-17 working as SDEO (M) Basham. Shangla	SS (Urdu) BS-17 GHSS Shahpur Shangla
73	Mr. Rehman Ul Mulk SS (Pak-Study) BS-17 working as SDEO (M) Lal Qilla. Dir Lower	SS (Pak-Study) BS-17 GHSS Akhagaram Dir Upper
74	Mr. Sadiq Jan SS (Urdu) BS-17 working as SDEO (M) Balambat Dir Lower	SS (Urdu) BS-17 GHSS Pachakalay Dir Upper
75	Mr. Hameed Ur Rehman HM BS-17 working as SDEO (M) Samar Bagh Dir Lower	HM BS-17 GHS Kumber Dir Lower
76	Mr. Raza Shah ADEO BS-16 working as SDEO (M) Munda Dir Lower	Services placed at the disposal of Directorate E&SE KPK
77	Mr. Muhammad Zafar HM BS-17 working as SDEO (M) Temergrah Dir	HM BS-17 GHS Badin Dir Lower
78	Mr. Mehboob Ur Rab SST BS-16 working as SDEO (M) Sheringal Dir Upper	Services placed at the disposal of DEO (M) Dir Upper
79	Mr. Habib Ullah. HM BS-17 working as SDEO (M) Laachi Kohat	HM BS-17 GHS Pakka Topi. Kohat
80	Mr. Muhammad Naeem Shah HM BS-17 working as SDEO (M) Tall Hangu	HM BS-17 GHS Sarozai Hangu
81	Mr. Tariq Javed SS (Chemistry) BS-17 working as SDEO (M) D.I. Khan	SS (Chemistry) BS-17 GHSS Darban Kalan, D.I. Khan
82	Mr. Mirza Khan SS (English) BS-17 working as SDEO (M) Phar Pur D.I. Khan	SS (English) BS-17 GHSS Abdul Kkhel D.I. Khan
83	Mr. Zain Ullah Khan SS (Chemistry) BS-17 working as SDEO (M) Prova D.I. Khan	SS (Chemistry) BS-17 GHSS No.2 D.I. Khan
84	Mr. Muhammad Khalid HM BS-17 working as SDEO (M) Kulachi D.I. Khan	HM BS-17 GHS Budd D.I. Khan
85	Mr. Saif Ul Malook HM BS-17 working as SDEO (M) Palas Kohistan	HM BS-17 GHS Shore Kot Kohistan
86	Mr. Muhammad Nawab SST BS-16 working as SDEO (M) Pattan, Kohistan	Services placed at disposal of DEO (M) Kohistan

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TESTED



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

(17)

87	Mr. Fazal Qayum SS (Pashto) BS-17 working as SDEO (M) Kohistan	SS (Pashto) BS-17 GHSS Sakhara, Swat
88	Mr. Abdur Rauf SS (Urdu) BS-17 working as SDEO (M) Khudo Khail, Buner	SS(Urdu) BS-17 GHSS Nogram, Buner
89	Mr. Ikhtiyar Ahmed SS (English) BS-17 working as SDEO (M) Mandan Buner	SS (English) BS-17 GHSS Agarai, Buner
90	Mr. Bakht Sher Hussain HM BS-17 working as SDEO (M) Gagara Buner	HM BS-17 GHS Rega Buner
91	Mr. Ayub Khan HM BS-17 working as SDEO (M) Dagar Buner	HM BS-17 GHS Anar Baig Mardan
92	Mr. Mir Samad ASDEO BS-16 working as SDEO (M) Batagaram	Services placed at disposal of Directorate of E&SE KPK
93	Mr. Sherferoz SST BS-16 working as SDEO (M) Alai Batagaram	Services placed at the disposal of DEO(M) Batagaram
94	Mr. Shabir Ahmed HM BS-17 working as SDEO (M) Baffa Mansehra	HM BS-17 GHS Darband (New) Mansehra
95	Mr. Abid Hussain, HM BS-17 working as SDEO (M) Ghazi Haripur	HM BS-17 GHS Chintari Haripur
96	Mr. Aman Ullah HM BS-17 working as SDEO (M) Bannu	HM BS-17 GHS Bilawar Khan Bannu
97	Mr. Akhtar Zaman HM BS-17 working as SDEO (M) Lakki Marwat	HM BS-17 GHS Shukrullah Hussain, Bannu
98	Mr. Muhammad Shafiq HM BS-17 working as SDEO (M) Sarai Naurang, Lakki Marwat	HM BS-17 GHS Nowar Khel Lakki Marwat
99	Mr. Raja Sheraz Ahmed HM BS-17 working as SDEO (M) Torghar	HM BS-17 GHS Judba Torghar
100	Mr. Sanaullah SS (Maths) BS-17 working as assistant Director	SS (Maths) BS-17 GHSS No.1 Peshawar City
101	Mr. Iqbal Hussain SS (Pashtu) BS-17 working as Assistant Director	SS (Pashto) BS-17GHSS No.1 Peshawar City
102	Mr. Abdul Qayyum ADEO BS-16 working as Assistant Director Directorate of E&SE	Services placed at disposal of Director E&SE KPK for further posting

J. Hussain

ACCEPTED



(18)

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

103	Mr. Hameed Ur Rehman ADEO BS-16 working as Assistant Director, Directorate of E&SE	Services placed at disposal of Directorate E&SE KPK for further posting
104	Mr. Aziz Ul Haq SS (Maths) BS-17 working as Assistant Director, Directorate of E&SE KPK	SS (Maths) BS-17 GHSS Manga Mardan
105	Mr. Hamood Ur Rehman ADEO BS-16 working as Assistant Director BS-17 . Directorate of E&SE KPK	Services placed at disposal of Directorate E&SE KPK for further posting.
106	Mr. Azim Khan ADEO BS-16 working as Assistant Director BS-17 Directorate of E&SE KPK	Services placed at disposal of Directorate E&SE KPK for further posting.
107	Mr. Muhammad Ilyas, SDEO BS-17 working as AD BS-17 at Directorate of E&SE.	SDEO BS-17 Lachi Kohat
108	Mr. Abdur Rehman, SDEO BS-17 Topi Swabi	Services placed at disposal of Directorate E&SE KPK for further posting.
109	Mr. Shahid Lodan, SDEO (BS-17) Wari Dir Upper	Services placed at disposal of Directorate E&SE KPK for further posting.
110	Mr. Amin Zada, SS (BS-17) GHS Akhwagram Dir Upper	SDEO (BS-17) Wari Dir Upper

2. No TA/DA is allowed.

SECRETARY

Endst: of even No. & Date

Copy forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar
3. District Education Officers (Male), Concerned.
4. District Account Officers, Concerned.
5. PS to Chief Secretary, Khyber Pakhtunkhwa.
6. PS to Advisor to CM for E&SE Department.
7. PS to Secretary E&SE Department.
8. PA to Additional Secretary (Estab), E&SE Department.
9. PA to Deputy Secretary (Admn), E&SE Department.
10. In-charge EMIS E&SE Department with the request to upload it on the website of the Department i.e. www.kpese.gov.pk
11. SDEOs Concerned.
12. Master file.

ATTESTED


(ANWAR AKBAR KHAN) 20/11/15
SECTION OFFICER (SCHOOLS MALE)

Anx 'C' (19)

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

No. 1864 /A-12/Estab:-1/Promotion of
ASDEO/ADEO to SDEO/AD

Dated Peshawar the 8-11 /2018.

To

The Secretary,
Govt. of Khyber Pakhtunkhwa
Elementary and Secondary Education
Department Peshawar.

SUBJECT: NOTIFICATION
Memo:

I am directed to refer to the Notification No.SO(S/M)/E&SED/3-2/2018, Promotion of ASDEOs BS-16 to SDEOs BS-17, dated 29.10.2018 and Notification No.SO(S/M)/E&SED/3-2/2013/Recruitment of SDEOs (M) BS-17 MC, dated 29.10.2018 on the subject cited above and to request that the services of 19 Assistant Directors placed at the disposal of this Directorate who are recently promotion from ASDEOs/ADEOs (MC) to the post of SDEOs/Assistant Directors while as per working papers submitted to your good office 10 post of Assistant Directors are available in this Directorate as per share of male officers. Now the following remaining 9 officers may be adjusted at on your own level against the SDEOs posts which are occupied by teaching cadre.

S#	Serial No. in Notification	Name of officers	Remarks
1.	03	Mr. Dilawar Khan	Appointed through KPK PSC
2.	11	Mr. Sheraz Hayat	Promoted through KPK PSC
3.	23	Mr. Mehboob Elahi	Promoted through DPC
4.	26	Mr. Dil Nawaz	Promoted through DPC
5.	29	Mr. Abdul Gayum	Promoted through DPC
6.	30	Mr. Ifkhar Ahmad	Promoted through DPC
7.	39	Muhammad Tariq	Promoted through DPC
8.	40	Mr. Hamid Rasool	Promoted through DPC
9.	46	Mr. Raisur Rehman	Promoted through DPC

It is therefore, requested that the above named officers may be adjusted as SDEOs in various Tehsils due to non availability of Assistant Directors post in this Directorate please.

ATTESTED

Endst.No. _____

Copy forwarded for information to the:-

1. P.A. to Director (E&SE) Khyber Pakhtunkhwa Peshawar.

[Signature]
Deputy Director (Establishment)
Directorate of Elementary and Secondary
Education Khyber Pakhtunkhwa Peshawar.

[Signature]
Deputy Director (Establishment)



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the December 24, 2018

NOTIFICATION

NO.SO(SME&SED/2-1/2018/Posting/Transfer/MC: Consequent upon recommendations of the Placement Committee, in its meeting held on 13.12.2018, the Competent Authority has been pleased to order posting/adjustment of the following officers of Management Cadre/Teaching Cadre on the posts/stations as mentioned against each with immediate effect:

S#	Name & Designation	From	To	Remarks
1	Mr. Baitullah, HM BS-17 (Teaching Cadre)	SDEO (M) Kohat	HM BS-17 GHS Shewaki Kohat	A.V.P
2	Mr. Dilawar Khan, SDEO BS-17 (Management Cadre)	waiting for posting	SDEO(M) Lachi, Kohat	V.S#3
3	Mr. Habib Ullah, HM BS-17 (Teaching Cadre)	SDEO(M) Lachi Kohat	HM BS-17 GHS Kirrosam Kohat	A.V.P
4	Mr. Mohammad Ilyas Khan, SDEO BS-17 (Management Cadre)	Waiting for posting	SDEO(M) Kohat	V.S#1
5	Mr. Abdul Hameed, SDEO BS-17 (Management Cadre)	Waiting for posting	Assistant Director at Directorate of E&SE	A.V.P
6	Mr. Ghaza Bacha, SS Maths BS-17 (Teaching Cadre)	SDEO(M) Chota Lahore, Swabi	SS Maths (BS-17) GHSS Kunda Swabi	-do-
7	Mr. Shams Ul Islam Niaz, SDEO BS-17 (Management Cadre)	Waiting for posting	SDEO(M) Chota Lahore, Swabi	V.S#6
8	Mr. Abdur Rehman, SDEO BS-17 (Management Cadre)	-do-	SDEO (M) Gagra, Buner	A.V.P
9	Mr. Najeeb Ullah, SST, BS-16 (Teaching Cadre)	SDEO (M) Lal Qila Dir Lower in OPS	Services placed at the disposal of DEO(M) Dir Lower for further posting	---
10	Mr. Lovedan Shahid, SDEO BS-17 (Management Cadre)	Waiting for posting	SDEO(M) Lal Qila, Dir Lower.	V.S#9
11	Mr. Abdul Mastan, SS English (BS-17) (Teaching Cadre)	SDEO (M) Barikot Swat	SS English (BS-17) GHSS Utror Swat	A.V.P

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ATTESTED

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GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

(21)

12	Mr. Imtiaz Khan, SDEO SDEO BS-17 (Management Cadre)	Waiting for posting	SDEO(M) Barikot Swat	V.S#11
13	Mr. Abdul Qayum, SDEO BS-17 (Management Cadre)	waiting for posting	SDEO(M) Lora Abbottabad	A.V.P
14	Mr. Raja Sheraz HM BS-17 (Teaching Cadre)	SDEO(M) Judba Torghar	HM (BS-17) GHS Judba Torghar	-do-
15	Mr. Raees Ur Rehman, SDEO BS-17 (Management Cadre)	waiting for posting	SDEO(M) Judba Torghar	V.S#14
16	Mr. Akhtar Jadoon, HM BS-17 (Teaching Cadre)	SDEO(M) Haripur	HM (BS-17) GHS Badhora Haripur	A.V.P
17	Mr. Iftikhar Ahmad, SDEO BS-17 (Management Cadre)	waiting for posting	SDEO (M) Haripur	V.S#16
18	Mr. Amin Zada, SS Biology BS-17 (Teaching Cadre)	SDEO(M) Wari Dir Upper	SS Biology (BS-17) GHSS Akhagram Dir Upper	A.V.P
19	Mr. Fazli Rehman, SS Urdu BS-17 (Teaching Cadre)	SDEO (M) Hangu	SS Urdu (BS-17) GHSS Ibrahim Zai Hangu	A.V.P
20	Mr. Dilnawaz Khan, SDEO BS-17 (Management Cadre)	waiting for posting	SDEO(M) Hangu	V.S#19
21	Mr. Choudry Nazir, SS Urdu BS-17 (Teaching Cadre)	SDEO (M) Khanpur Haripur	SS Urdu (BS-17) GHSS Barkot Haripur	A.V.P
22	Mr. Naseer Ahmed, SDEO BS-17 (Management Cadre)	waiting for posting	SDEO (M) Khanpur Haripur	V.S#21
23	Mr. Muhammad Nawab, SST BS-16 (Teaching Cadre)	SDEO(M) Patan Kohistan	Services placed at the disposal of DEO(M) Kohistan for further posting	---
24	Mr. Luqman Hakeem, SDEO BS-17 (Management Cadre)	waiting for posting	Assistant Director at Directorate of E&SE	A.V.P
25	Mr. Abdul Hameed Lodhi, SS Maths BS-17 (Teaching Cadre)	SDEO (M) Lower Tanawal Abbottabad	SS Maths (BS-17) GHSS Muslim Abad Abbottabad	-do-
26	Mr. Abdul Malik SDEO, SDEO BS-17 (Management Cadre)	waiting for posting	Assistant Director at Directorate of E&SE	-do-
27	Mr. Abdus Sumad, SDEO BS-17 (Management Cadre)	-do- Abbottabad	SDEO (M) Lower Tanawal Abbottabad	V.S#25

24/12/17

*do-
Abbottabad*

ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

22

28	Mr. Farukh Said Khan, HM BS-17 (Teaching Cadre)	SDEO(M) Bannu	HM (BS-17) GHS Kinger Jan Bahadar, Bannu	A.V.P
29	Mr. Muhammad Tariq, SDEO BS-17 (Management Cadre)	waiting for posting	SDEO (M) Bannu	V.S#28
30	Mr. Sheraz Hayat, SDEO BS-17 (Management Cadre)	waiting for posting	SDEO (M) Wari Dir Upper	V.S#18
31	Mr. Inayat Ullah, HM BS-17 (Teaching Cadre)	SDEO(M) Charbagh Swat	HM BS-17 GHS Manpatai Swat	A.V.P
32	Mr. Hamid Rasool, SDEO BS-17 (Management Cadre)	waiting for posting	Assistant Director at Directorate of E&SE	A.V.P
33	Mr. Mir Samad ASDEO B-16 (Management Cadre)	SDEO(M) Battagram in OPS	Services placed at the disposal of Directorate of E&SE	
34	Mr. Sharafat Khan, SDEO BS-17 (Management Cadre)	waiting for posting	SDEO(M) Battagram	V.S#33
35	Mr. Raja Babu Jehangir, SDEO (BS-17)	DDEO (M) Lower Kohistan in OPS	Assistant Director Training (BS-17) at DCTE Abbottabad	A.V.P

2. No TA/DA is allowed.

SECRETARY

Endst: of Even No. & Date:

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director, E&SE, Khyber Pakhtunkhwa, Peshawar
3. District Education Officers (Male), Concerned.
4. District Accounts Officers, Concerned.
5. PS to Advisor to CM for E&SE Department.
6. PS to Secretary, E&SE Department.
7. In-charge EMISE E&SE Department.
8. Officers Concerned
9. Master file.

(MIAN HUSSAIN DIN)
SECTION OFFICER (SCHOOLS MALE)

ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated Peshawar the January 18, 2019

Anx "E"

23

NOTIFICATION

NO.SO(SM)E&SED/2-1/2019/Posting/Transfer/MC: The Competent Authority is pleased to order posting/transfer of the following officers' of Management Cadre/Teaching Cadre on the posts/stations as mentioned against each, in the interest of public service, with immediate effect:

S#	Name & Designation	From	Posted as	Remarks
1	Mr. Muhammad Tariq, SDEO (BS-17) MC	SDEO (Male) Bannu	SDEO (Male) Tall Hangu	V.S#2
2	Mr. Muhammad Irshad, SDEO (BS-17) MC	SDEO (Male) Tall Hangu	SDEO (Male) Bannu	V.S#1
3	Mr. Charagh Din, SS H/Civics (BS-17) TC	Working as SDEO (Male) Barawal Bandi Dir Upper	SS H/Civics (BS-17) GHSS Beyar Dir Upper	A.V.P
4	Mr. Sharif Ullah, SS English (BS-17) TC	Working as SDEO (Male) Dir Upper	SS English (BS-17) GHSS Beyar Dir Upper	-do-
5	Mr. Mahboob ur Rab, SST (BS-16) TC	Working as SDEO (Male) Sheringal Dir Upper in OPS	Services placed at the disposal of DEO (Male) Dir Upper	---
6	Mr. Shah Rawan, SS Chemistry (BS-17) TC	Working as SDEO (Male) Kalkot Dir Upper	SS Chemistry (BS-17) GHSS Birari Dir Upper	A.V.P
7	Mr. Muhammad Ayub, HM (BS-17) TC	Working as SDEO (Male) Dagar Buner	HM (BS-17) GHS Pipil Mardan	-do-
8	Mr. Fazal Qayum, SS Pashto (BS-17) TC	Working as SDEO (Male) Kohistan	SS Pashto (BS-17) GHSS Sakhara Swat	-do-
9	Mr. Muhammad Pervez, DPE (BS-17) TC	Working as SDEO (Male) Alpuri Shangla	IPE (BS-17) GHSS Butyal Shangla	-do-
10	Mr. Akhtar Naeem, SS Urdu (BS-17) TC	Working as SDEO (Male) Besham Shangla	SS Urdu (BS-17) GHSS Butyal Shangla	-do-
11	Mr. Baitullah, HM (BS- 17) TC	GHS Shawaki Kohat	HM (BS-17) GHS Khadarkhel Kohat	A.V.P

2. No TA/DA is allowed.

SECRETARY

Endst: of Even No. & Date:

Copy forwarded to the:-

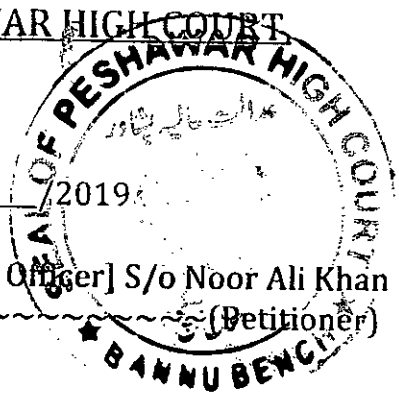
1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director E&SE, Khyber Pakhtunkhwa, Peshawar

ATTESTED

**BEFORE THE HON'BLE PESHAWAR HIGH COURT
BANNU BENCH**

Writ Petition # 62 /2019

Muhammad Tariq [Sub-Divisional Education Officer] S/o Noor Ali Khan
R/o Mula Khel Tehsil & District Bannu ~~~~~ (Petitioner)



VERSUS

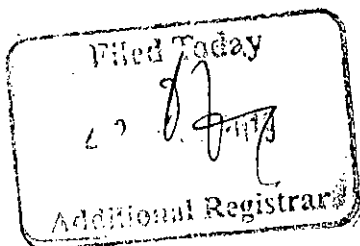
- (1) The Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Peshawar.
- (2) The Secretary Elementary & Secondary Education Govt. of Khyber Pakhtunkhwa Peshawar.
- (3) The Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
- (4) The Deputy Director (Establishment) Directorate of Elementary & Secondary Education KPK Peshawar.
- (5) Mr. Muhammad Irshad Sub-Divisional Education Officer (Male) Tall District Hangu.

~~~~~ (Respondents)

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF THE  
ISLAMIC REPUBLIC OF PAKISTAN, 1973 AS AMENDED UP TO DATE

PRAYER: ON ACCEPTANCE OF INSTANT WRIT PETITION, THIS HON'BLE COURT MAY VERY GRACIOUSLY BE PLEASED TO DECLARE TRANSFER POSTING NOTIFICATION #SO(SM) E&SED/2-1/2019/POSTING/TRANSFER/MC DATED 18/01/2019 ISSUED BY THE RESPONDENT #1, TO THE EXTENT OF PETITIONER, AS NULL, VOID-AB-INITIO, ILLEGAL, BASED ON POLITICAL INFLUENCE, AGAINST THE RULES AND NATIONAL EDUCATION POLICY 2009, BASED ON COLLUSION AND THUS LIABLE TO CANCELLATION. THIS HON'BLE COURT MAY ALSO BE PLEASED TO DIRECT THE RESPONDENTS NOT TO ISSUE

*Fahimullah*



**ATTESTED**

EXAMINER  
Peshawar High Court  
Bannu Bench



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TRANSFER NOTIFICATION OF PETITIONER PRIOR TO  
COMPLETION OF HIS POSTING TENURE AS PER LAW.

ANY OTHER RELIEF NOT SPECIFICALLY PRAYED BUT DEEMS  
FIT BY THIS HON'BLE COURT MAY KINDLY BE ALSO  
GRANTED.

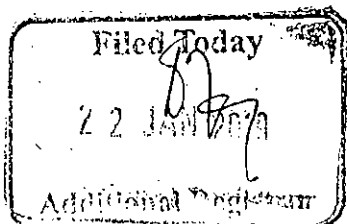
INTERIM RELIEF:

Since this writ petition might take some time in disposal  
and respondents are pressurizing the petitioner to  
relinquish charge of the post of SDEO Bannu, therefore,  
interim relief in shape of suspension of aforesaid  
notification may kindly be granted till final disposal of this  
writ petition.

Note: Addresses of parties given in heading of this writ petition,  
are correct and sufficient for the purpose of service.

Respectfully Sheweth:

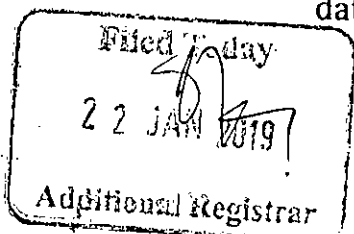
1. Short facts of the case in hand are that the petitioner is a Govt. Servant in capacity of Assistant Sub-Divisional Education Officer (SDEO) and is serving at District Bannu.
2. That, vide notification bearing #SO(SM)E&SED/3-2/2018/ Promotion of ASDEOS (BS-16) to SDEOS (BS-17) dated 26/9/2018, the petitioner was promoted from Assistant Sub-Divisional Education Officer (BS-16) to Sub-



**ATTESTED**

EXAMINER  
Peshawar High Court  
Bannu Bench

Divisional Education Officer (BS-17) and as such the respondents on 29/10/2018 issued adjustment/posting notification bearing #SO(SM)E&SED/3-2/2018/ Promotion of ASDEOS (BS-16) to SDEOS (BS-17), whereby, the petitioner was posted as Assistant Director (BS-17) at Directorate of E&SE Peshawar; that on 30/10/2018 the respondents issued corrigendum bearing #SO (SM)E&SED/3-2/2018/SDEOs (BS-17), whereby, services of one Mr. Hamid Rasool SDEO were transferred to Directorate of E&SE and seat of SDEO District Bannu was left vacant; that having vacant seat at parent District, the petitioner requested the respondents for his posting at District Bannu on ground that he is only male member of his family coupled with fact that his son is suffering from Rheumatic Fever, Serious allergy and poor immunity and he cannot be left unattended for long period, however, the respondents paid no heed and were intending to fill said post via political influence. Feeling aggrieved, the petitioner submitted Writ Petition #1007-B of 2018 before this Hon'ble Court, and this Hon'ble Court vide order dated 26/11/2018 was pleased to convert the same into departmental representation and was sent to the respondents for adjudication of same on merits in accordance with law within period of 15 days. (Copy of W.P #1007-B of 2018 and order of this Hon'ble Court dated 26/11/2018 are annexed "A" & "B").



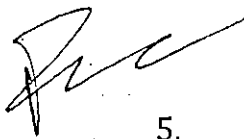
**ATTESTED**

*W*  
 EXAMINER  
 Peshawar High Court  
 Bannu Bench

(27)

3. That, the respondents adjudicated the said representation and vide notification #notification #SO(SM) E&SED/2-1/2018/Posting/Transfer/MC dated 24/12/ 2019, the petitioner was posted at his parent district. (Copy of notification #SO(SM) E&SED/2-1/2018/Posting/Transfer /MC dated 24/12/ 2019, is annexed "C").

4. Nevertheless, within a period of 25 days, the respondents issued the impugned notification #SO(SM) E&SED/2-1/ 2018/Posting/Transfer/MC dated 18/01/2019, whereby, services of the petitioner were transferred from District Bannu to Tall District Hangu. (Copy of impugned notification #SO(SM) E&SED/2-1/ 2018/Posting/Transfer /MC dated 18/01/2019 is annexed "D").

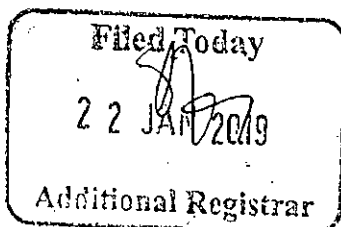


5. Feeling aggrieved from the act of respondents, the petitioner having no other remedy but to invoke the inherit jurisdiction of this Hon'ble Court, *inter-alia* on the following grounds:

GROUNDS

1. That, the act of respondents by again transferring the petitioner within 25 days of service, is against the law, rules, based on political influence, against the National Education Policy 2009; hence, is untenable in the eyes of law and is liable to be set at naught.

2. That, it has been time and again emphasized in the National Education Policy 2009/2017 that decline in



ATTESTED

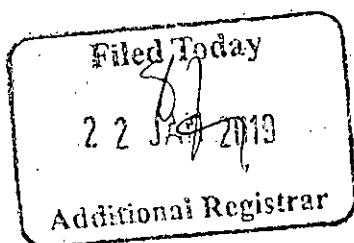
EXAMINER  
Tribunal High Court  
Bannu Bench

education system of Pakistan has resulted from political interference and corrupt practices in recruitments, transfers and postings, therefore, such practice must be curbed and recruitments, transfers and postings shall be based on merits. On this score too, the impugned transfer order is not maintainable and the act of respondents is *prima-facie* violation of NEP, 2009/2017.

3. That, the petitioner had discharged his duty in District Bannu with great zeal, zest and honesty and a solitary complaint was neither received to respondents nor filed against him.

4. That, son of petitioner is suffering from Rheumatic Fever, Serious allergy and poor immunity and it is strongly recommended by doctors that he should not be left unattended even for a week otherwise his life may be at stake. Therefore, on merits as well as on humanitarian ground, the petitioner is entitled to be posted at District Bannu.

5. That, it is also the spirit of law, rules, policy of civil servants and natural justice, that an honest and responsible officer may be given opportunity to serve his parent district especially in view the unavoidable domestic affairs and illness of son of petitioner.



ATTESTED

EXAMINER  
Peshawar High Court  
Bannu Bench

6. That, the learned counsel for the petitioner may kindly be permitted to raise additional grounds at the time of arguments.

For the reasons mentioned above, it is, therefore requested that the instant writ petition may graciously be accepted as prayed for.

Dated: 21/01/2019

Muhammad Tariq (Petitioner)  
Through counsel:

(SYED FAKHR-UD-DIN SHAH)  
Advocate Supreme Court

CERTIFICATE:

This is to certify that no such petition is neither pending nor filed before any other forum.

(SYED FAKHR-UD-DIN SHAH)  
Advocate Supreme Court

AFFIDAVIT

I, do hereby solemnly affirm and declare on oath that the contents of instant writ petition are true and correct to the best of my knowledge and belief and that nothing has been kept secret or concealed from this Hon'ble Court.

Deponent:

  
Muhammad Tariq  
SDEO (Petitioner)

Identified by:

  
(SYED FAKHR-UD-DIN SHAH)  
Advocate Supreme Court

No. 7803  
Certified that the above was verified on solemnly affirmation before me in office this 21 day of Jan 2019 by Mohammad Tariq SDEO Bannu who was identified by Syed Fakhrudelin who is personally know to me Ash

Filed Today  
22 JAN 2019  
Additional Registrar

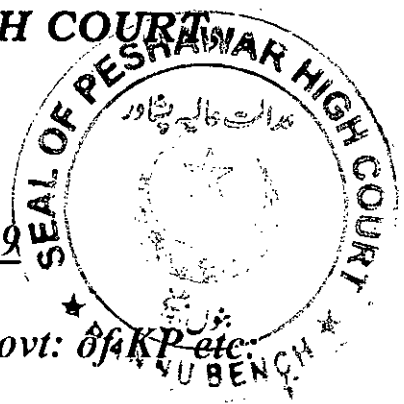
Oath Commissioner  
Peshawar High Court  
Bannu Bench

ATTESTED  
EXAMINED  
Peshawar High Court  
Bannu Bench

**JUDGMENT SHEET  
IN THE PESHAWAR HIGH COURT  
BANNU BENCH.**

(Judicial Department)

W.P No. 62-B of 2019



Muhammad Tariq Vs. Govt: of KP etc.

**JUDGMENT**

Date of hearing 23/01/2019

Appellant-Petitioner By Syed Fakhruddin Shah Adu

Respondent(s) \_\_\_\_\_

**SHAKEEL AHMAD, J.---** The petitioner through this Constitutional petition filed U/A-199 of the Islamic Republic of Pakistan, 1973, the following relief:-

*"On acceptance of instant writ petition, this Hon'ble Court may very graciously be pleased to declare transfer posting notification No. SO(SM) E&SED/2-1/2019/Posting/Transfer/MC dated 18.01.2019 issued by the respondent No.1, to the extent of petitioner, as null, void-ab-initio, illegal based on political influence, against the rules and National Education Policy 2009, based on collusion and thus liable to cancellation. This Hon'ble Court may also be pleased to direct the respondents not to issue transfer*

\*Imranullah\* (D.B) Justice Muhammad Nasir Mahfooz and Justice Shakeel Ahmad

**ATTESTED**

**EXAMINER**

Peshawar High Court

Bannu Bench

notification of petitioner prior to completion of his posting  
tenure as per law."

2. At the very out-set, learned counsel for the petitioner  
stated at the bar that he would not press the instant petition, provided  
the same be treated as representation and sent to competent authority  
for decision in accordance with law.

3. In view of the above, this petition is treated as  
representation and sent to the competent authority for decision in  
accordance with law within a period of one month from the date of  
receipt of this order. Disposed of accordingly.

**Announced.**  
23.01.2019.

Sd/Justice Muhammad Nasir Mahfooz, J  
Sd/Justice Shakeel Ahmad, J

~~SENT TO BE TRIED~~  
*Nasir Mahfooz*  
13/2/19

Examiner  
Peshawar High Court Bench  
Authorised Under Article 87  
Qanun-e-Shuhada Order 1974

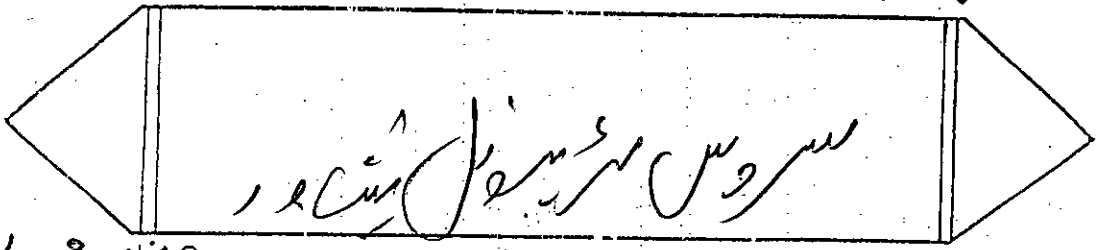
*At 12/1/19*

1240

No. \_\_\_\_\_  
Date of Presentation of Application 11-2-19  
No of Pages 8P  
Copying Fee 15-  
Urgent Fee \_\_\_\_\_  
Total 14-  
Date of Pre. 12-2-19  
Date Given 13-8-19  
Date of Delivery 13-8-19  
Received By [Signature]



# بعد الت



2، پنجاب محمد طارق

محمد طارق بنام گورنمنٹ آف پاکستان

S. Appeal

موزخہ  
مقدمہ  
دعویٰ  
جرم

## باعث تخریر آئیکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی، دیکھ کر کارروائی متعلقہ  
آن مقام سروس گریڈنگ مشور کیلئے محمد طارق بنام گورنمنٹ آف پاکستان کی طرف سے

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب، وصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز  
دیکھ صاحب کو راضی نامہ کرنے و تقرر ثالثتہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور صولی چیک روپیہ ارضعی دعویٰ اور درخواست ہر قسم کی تصدیق  
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت، ریم پیروی یا ڈگری یا کٹرفہ یا اپیل کی برآمدگی اور منسوخی  
نیز دائرہ 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 کیل یا مختار قانونی لوہے ہمراہ یا اپنے بجائے تقرر کا اختیار  
ہوگا۔ اور صاحب مقرر شدہ کو پیش وہی جملہ مذکورہ با اختیار حاصل ہوں گے اور اس کا سائن  
پر و اختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جانب التوا نے مقدمہ کے سبب سے وہ ہونا  
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو دیکھ صاحب ماہند ہوں گے۔ کہ پیروی  
مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند ہے۔

المرقوم 23 ماہ 4 2019

Accepted by

Inayat Adw PAK LHM (UK)

بمقام سند

محمد طارق

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

**Service Appeal No.523/2019**

Muhammad Tariq

VS

Govt Of KP:

.....

**REPLY ON BEHALF OF RESPONDENTS NO.04**

.....

**RESPECTFULLY SHEWETH:**

**Preliminary Objections:**

1. That the appellant has no locus standi and cause of action.
2. That the appellant has not come with clean hands.
3. That the appeal is time barred.
4. That the appeal is not maintainable.
5. That the appeal is bad for non-joinder and misjoinder of parties.
6. That the appeal is estopped by his own conduct to file the present appeal.
7. That the transfer orders were made according to law and rules and by competent authority.
8. That according to Sec 10 of the Civil Servant Act 1973, every civil servant shall be liable to serve anywhere within or outside of the province.
9. That according to first placement committee recommendations the appellant was adjusted as SDEO Bannu but despite that the appellant was post at tall but when deptt rectified the error the appellant was posted as SEDEO bannu, so the impugned order is according to alw and passed in the public interest.

10. That the appellant was posted in directorate but the appellant not take the charge, so the appellant is waiting for the posting on thereon will station.
11. That the appeal of the appellant is suffering from material, factual and legal defects.
12. That the appellant has filed the instant service appeal before this tribunal just to pressurize the replying respondents and tries to make interference in public service as well as in smooth running of official business.
13. That the appellant better knows that respondent No.4 is senior to him in service etc.
14. That postings and transfers are purely administrative matters and are exercised in the betterment of Government employees as well as public service.
15. That according to policy and rules no officer of management cadre can be posted in his native town/Sub Division and District while the appellant is a bonafied resident of District Bannu, Sub Division Bannu.

**FACTS:**

1. Para-1 of the appeal is not related to replying respondent. Para-1 of the appeal was denied and replied by the Official respondent in his reply
2. Correct to the extent that the appellant was posted as assistant director but the appellant not assumed the charge of the said post and wait for the posting to the his own will place, which is not permissible in the eye of law.
3. Not related to replying respondent and denied for want of knowledge. It is pertinent to mention and to bring into the notice of this Honorable Tribunal with regard to the illegal and irregular act on the part of appellant which also shows his inefficacy to words the Government duty and job. The appellant remained at home doing nothing for more than two months willfully.
4. Incorrect and misconceived. The transfer order of the appellant was issued by the respondent on political motivation which is against the policy which was rectified vide order dated 18.01.2019

on the ground that the order was passed by violating the legal right of the replying respondent which was already in field, first placement committee recommendations the appellant was adjusted as SDEO Bannu.

5. Incorrect and misconceived. The posting order dated 18.01.2019 is according to law and rules and issued in the public interest. the said transfer/adjustment has been made purely on merit and policy. That no political influence or pressure has been exercised by respondent No.4.
6. Correct to the extent that he appellant approached High court bench Bannu but the writ petition was rejected.
7. Denied for want of knowledge.
8. Incorrect. the impugned order is according to the law & Rules. Hence the appeal may be dismissed. incorrect and not admitted as the appellant is not an aggrieved person as because all transfers/adjustments and postings are made in the interest of public services on administrative grounds.

#### **GROUND.**


- A. incorrect. impugned order is according to law and rules. according to section 10 the civil servant posted any where in the province in public interest.
- B. incorrect. the appellant was not transferred 2 or three times, the appellant himself not taking charge of the post of assistant director, further it is added that the order was issued in the public interest and in according to decision of first placement committee. moreover, respondent No.4 on the basis of his merit and seniority has been transferred on the post of SDEO (BS-17) to Bannu but not on the basis of using political influence etc. The appellant is making imagination as well as presumption.
- C. That incorrect and not admitted: No political consideration, mala-fide and ill will has been exercised with the appellant on the part of replying respondents.
- D. Incorrect and misleading. The instant Para pertains to national education policy 2009/2017. It is important to note that transfer/adjustment orders of the appellant and that of respondent No.4 etc, has been made keeping in view their merit position and seniority , the same transfer/adjustment order is not a desired one. It was also recommended by the first placement committee.

moreover, the judgment quote by the appellant is not relevant to the case. Both the cases have different facts. However, the appellant has not been transferred from his post time and again but since the appellant did not take over charge of his assigned/promoted post as Assistant Director (BS-17) at the Directorate of E&SE Peshawar.

It is, therefore, most humbly prayed that the appeal in hand may be dismissed with cost throughout being merit less and devoid of any legal footing.

  
Replying Respondent no.4

Through:

  
SYED NOMAN BUKHARI  
ADVOCATE HIGH COURT PESHAWAR

### AFFIDAVIT

It is affirmed and declared that the contents of reply are true and correct to the best of my knowledge and belief.



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

**Service Appeal No.523/2019**

Muhammad Tariq

VS

Govt Of KP:

**REPLY ON BEHALF OF RESPONDENT NO.4 TO THE  
APPLICATION OF SUSPENSION**

**RESPECTFULLY SHEWETH:**

1. No comments.
2. That the accompanying reply may kindly be treated as part and parcel of this application.
3. Denied. The impugned order dated 18.01.2019 is according to law and rules and there is no illegality in the impugned order.
4. Denied. The case of the appellant is defective and with malafide intention.

It is, therefore, most humbly prayed that the application of the appellant <sup>was</sup> ~~was~~ rejected with cost.

  
Replying Respondent no.4

Through:

  
**SYED NOMAN BUKHARI**  
ADVOCATE HIGH COURT PESHAWAR

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

**PESHAWAR.**

**Service Appeal No: 523/2019**

**Muhammad Tariq .....Appellant**

**Versus**

**Govt: of Khyber Pakhtunkhwa through Chief Secretary & Others.....Respondents**

**Para wise comments/Reply on behalf of respondents No.1 to 3.**

**Respectfully sheweth:**

**PRELIMINARY OBJECTIONS ON SERVICE APPEAL.**

- 1- That the appellant has got no cause of action and locus standi to lodge the instant service appeal before this honorable tribunal.
- 2- That appeal of the appellant is bad for non-joinder and miss joinder of the necessary parties.
- 3- That the instant service appeal is not maintainable and tenable in the eyes of law, is liable to be set, aside.
- 4- That the appeal of the appellant is suffering from material, factual and legal defects.
- 5- That the appellant has filed the instant service appeal before this tribunal just to pressurize the replying respondents and tries to make interference in public service as well as in smooth running of official business.
- 6- That the appellant better knows that respondent No.4 is senior to him in service etc.
- 7- That postings and transfers are purely administrative matters and are exercised in the betterment of Government employees as well as public service.
- 8- That according to policy and rules no officer of management cadre can be posted in his native town/Sub Division and District while the appellant is a bonafied resident of District Bannu, Sub Division Bannu.
- 9- That the appellant is chronic litigant and throughout his entire service history, he has contested cases and trials against his higher-ups.
- 10-Section 4 and 10 of the Khyber Pakhtunkhwa Civil Servant Act,1973 empowers the Competent Authority regarding posting / transfer of Civil Servant to anywhere in the province.

**REPLY TO FACTS.**

- 1- That 1<sup>st</sup> Para of the appeal pertains to the appointment and promotion from the post of ASDEO (BS-16) to SDEO (BS-17), however, it would not be out of place to mention that appellant in accordance of seniority is junior to private respondent No.4. the appellant is standing at S.No. 49 while private respondent No.4 is on S.No 9.
- 2- That para pertains to record.
- 3- That Section 4 and 10 of the Khyber Pakhtunkhwa Civil Servant Act,1973 empowers the Competent Authority regarding posting / transfer of Civil Servant to anywhere in the province.

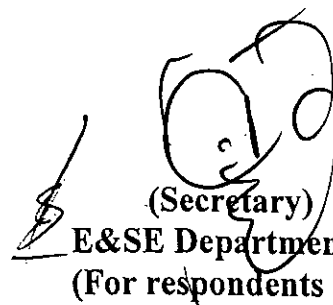
the appellant's transfer vide Notification order No.SO(SM)E&SED/2-1/2018/Posting/Transfer Dated 24.12.2018 was against the vacant post, but later on the respondent No.4 submitted an appeal that according to seniority the appellant is much junior than private respondent No.4.

- 5- That private respondent No.4 on the basis of his merit as well as seniority position was transferred/adjusted against the post of SDEO Male (BS-17) at District Bannu whereas the appellant was adjusted at District Hangu vide Notification No. SO(SM)E&SED/2-1/2019/Posting/Transfer Dated 18/01/2019. That the said transfer/adjustment has been made purely on merit and policy. That no political influence or pressure has been exercised in the instant case.
- 6- That the instant Para of the appeal is relevant to the record of Peshawar High Court Bannu Bench in writ petition No. 62/2019 titled Muhammad Tariq versus Govt. of Khyber Pakhtunkhwa and others, the Para being legal and related to judicial record, hence no comments.
- 7- That the Para pertains to the judicial record, hence no comments.
- 8- That incorrect and not admitted as the appellant is not an aggrieved person as because all transfers/adjustments and postings are made in the interest of public services on administrative grounds, hence the plea of the appellant is liable to be dismissed alongwith his service appeal on the following grounds.

**REPLY TO GROUNDS:-**

- a- Incorrect: The transfer/adjustment order of the appellant has been issued in accordance of policy and rules and the same is not suffering from material and legal defects. The same is tenable in the eyes of law. That the appellant has quoted and referred the National Education Policy 2009 whereas the said policy time and again emphasizes that transfer and posting shall be based on merits.
- b- That incorrect and not admitted: That private respondent No.4 on the basis of his merit and seniority has been transferred to the post of SDEO (BS-17) at Bannu but not on the basis of using political influence etc.
- c- Incorrect. The statement of the appellant in this para is without any cogent proof and against the fact, hence denied.
- d- That the instant Para pertains to national education policy 2009/2017. It is important to note that transfer/adjustment orders of the appellant and that private respondent No.4 etc, has been made keeping in view their merit position and seniority.

It is therefore most humbly prayed that keeping in view the above Para wise comments/reply in response to service appeal No. 523/2019, this Honorable Tribunal may very graciously be pleased to dismiss the appeal filed by the appellant with heavy cost throughout.

  
(Secretary)  
E&SE Department KP  
(For respondents 1 to 3)