

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR.

Service Appeal No. 213/2019

Date of Institution ... 18.02.2019

Date of Decision ... 04.02.2021

Amir Muhammad S/o Abdul Karim,
Presently posted as SST,
Government High School Gumbat Kohat.

... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa, through Secretary
Elementary & Secondary Education, Civil Secretariat, Peshawar
and three other respondents.

... (Respondents)

Mr. Hassan U.K Afridi,
Advocate

For appellant.

MR. ASIF MASOOD ALI SHAH,
Deputy District Attorney

For respondents.

MUHAMMAD JAMAL KHAN
ATIQU-UR-REHMAN WAZIR

MEMBER (Judicial)
MEMBER (Executive)

JUDGEMENT:

MUHAMMAD JAMAL KHAN, MEMBER:- Through the instant appeal, submitted under section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974, the vires of impugned order bearing no. 6687-88 dated 24.09.2018 passed by District Education Officer (Male) Elementary and Secondary Education, Kohat, and Deputy District Education Officer (Male), has been called in question and stated to be ultra vires, therefore, is liable to be set at naught.

2. That on induction as a CT Teacher on 12.11.1983, appellant rendered his duties to the entire satisfaction of his superior officers, it

was on the basis of rendition of meritorious services that his selection was made for the post of Assistant Sub-Divisional Education Officer where he discharged his duties whole heartedly, it was during this time that respondent no. 4 dispatched a letter to respondent no. 2 whereby it was stated to held in abeyance the referred to post of ASDEO. The Deputy Director passed transfer order of the appellant by placing his services at the disposal of District Education Officer vide order dated 04.04.2018, later on respondent no. 4 passed an order by making transfer of appellant as per direction to the Government Middle School, Behzadi Railway, Kohat, vide order dated 03.05.2018, subsequently, appellant was transferred from Middle School Behzadi Railway to Government High School Gumbat SST (G) by dent of order dated 24.09.2018 passed by respondent No. 4. Being not satisfied from the dispensation so made he moved departmental appeal however, it was returned with the remarks of placing it before respondent no. 1 and lastly, he moved appeal before the competent authority which remained un-responded hence, the present service appeal.

3. Respondents were summoned, in pursuance thereof they attended the Tribunal through their legally authorized representative and contested the appeal by submitting their written reply/comments wherein raising certain legal and factual objections, inter-alia, no locus standi, concealment of material facts, approaching the Tribunal without clean hands etc.

4. We have heard arguments of the learned counsel representing their respective parties and were able to go through the record on file.

5. While initiating his respective arguments, the learned counsel representing appellant submitted that within a short span of just five months the transfer of appellant was made several times. He referred to the office order dated 04.04.2018 passed by the Deputy Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar, whereby the services of appellant as ASDEO (Male) and one other official were placed at the disposal of District Education Officer (Male) Kohat, for further posting against the vacant post of SST in their own pay and scale. He also referred to the letter bearing no. 3425 dated

17.04.2018 by virtue of which it was suggested that the services of appellant as ASDEO (Male) Kohat, are required at the present place of posting as his duties have been assigned to the Election Commission of Pakistan for rendering his assistance in election, therefore, it was opined, the learned counsel submitted that the transfer order of the appellant, was either be cancelled or else be kept in abeyance. The learned counsel referred to the adjustment order dated .03.05.2018 passed by the Deputy District Education Officer (Male) Kohat, whereby appellant was posted to GMS Behzadi Railway Kohat, against the newly created post. By virtue of transfer order dated 24.09.2018 passed by the Deputy District Education Officer (Male) Kohat appellant while acting as SST (G) at GMS Behzadi Railway Kohat, was transferred to GHSS Gumbat Kohat against the vacant post of SST (G) in his own pay and grade, he placed reliance on 2018 SCMR 1411. That frequent transfer of a civil servant is unwarranted and liable to be cancelled.

6. On the contrary, the learned Deputy District Attorney for the respondents submitted that the transfer of appellant was made to the newly upgraded school in which enrolment of boys of eight class were not adequate, therefore, his transfer was made to GHSS Gumbat as SST (G) where he has already assumed the charge of his new assignment, whereas in GMS Behzadi Railway Kohat, one Arshed has been adjusted who has also assumed the charge of his respective job. Purportedly, the transfer of appellant was made from the Management Cadre to the Teaching Cadre to which he belonged. The learned Deputy District Attorney submitted that the Hon'ble Supreme Court of Pakistan has ordained that officers belonging to the Management Cadre has to be adjusted in the Management Cadre and the Teachers in the Teaching Cadre and carried on that the appeal is devoid of merits and liable to be dismissed.

7. The record on file transpired that the services of appellant while acting as ASDEO (Male) Circle Ghurzai Kohat were placed by the Deputy Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar, at the disposal of District Education Officer (Male) Kohat for further posting vide order of the aforesaid official dated 04.04.2018. By

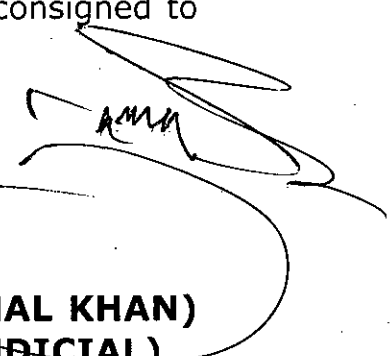
virtue of letter bearing no. 3425 dated 17.04.2018 the Deputy District Education Officer (Male) Kohat, requested the Director Elementary & Secondary Education that in view of the appointment of appellant as Assistant Returning Officer as a result of which his duties have been assigned to the Election Commission of Pakistan suggesting that in view of exigency of services the transfer order of appellant may be cancelled or be kept in abeyance however, the services of appellant were adjusted at GMS Behzadi Railway Kohat against the newly created post and since the purpose for which the posting of appellant was made could not be attained due to inadequate enrolment of Class eight students, his services were transferred from aforesaid school to GHSS Gumbat against the vacant post of SST (G) meaning there by that in fact a single transfer of appellant has been made, all that has been done in the pristine past did not pertain to any transfer rather his services were adjusted and that too in his own pay and grade, making of adjustment of a civil servant in his own pay and scale virtually did not amount to punishment rather an order was made efficacious for safeguarding of the interest of public at large. His adjustment was initially made at the newly created post at GMS Behzadi Railway Kohat which could not be realized due to the non-availability of students of class eight at that very school. The record on file reflect that appellant virtually acted as SST (G) and his services were acquired as ASDEO (Male) for the time being due to non-availability of a suitable candidate on the basis of stop gape arrangements. Since appellant was appointed as Assistant Returning Officer in the General Election 2018 by the Election Commission of Pakistan, therefore, respondent no. 4 i.e Deputy District Education Officer (E&SE) (Male) Kohat requested the Director Elementary & Secondary Education, Peshawar, for holding in abeyance the transfer order for facilitating the appellant to render his serves to the Returning Officer.

8. It is an admitted fact that in the Education Department, the teaching cadre has been severed from the Management Cadre and an official belonging to the Management Cadre cannot be appointed against the post of ASDEO etc. The embodiment of record reflect that services of appellant were required in Government High School Gumbat Kohat,

therefore, the transfer so made in no way tantamounts to punishment. We do not find any viable reason to interfere in the impugned transfer order dated 24.09.2018 passed by respondent no. 4.

9. The inevitable corollary of what has been discussed in the preceding paras, is that we find no reason to intervene in the impugned order dated 24.09.2018 passed by Deputy District Education Officer (Male) Kohat, resultantly, this appeal having no substance is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
04.02.2021



(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)



(ATIQ-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)

Service Appeal No.-213/2019

S.No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	04.02.2021	<p><u>Present.</u></p> <p>Mr. Hassan U.K Afridi, Advocate ... For appellant</p> <p>Mr. Asif Masood Ali Shah, Deputy District Attorney ... For respondents.</p> <p>Vide our detailed judgement of today, we find no reason to intervene in the impugned order dated 24.09.2018 passed by Deputy District Education Officer (Male) Kohat, resultantly, this appeal having no substance is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.</p> <p><u>ANNOUNCED</u> 04.02.2021</p> <p>(Muhammad Jamal Khan) Member (Judicial)</p> <p>(Atiq-ur-Rehman Wazir) Member (Executive)</p>

12.5.2020

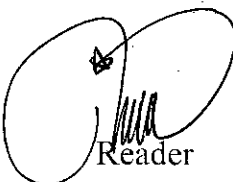
Due to COVID19, the case is adjourned to

4/8/2020 for the same as before.


Reader

04.08.2020

Due to summer vacation case is adjourned to 05.10.2020
before D.B for the same.



Reader


05.10.2020

Nemo for appellant.

Mrs. Zara Tajwar learned Deputy District Attorney
alongwith Waheed Gul, ADO for respondents present.

Perusal of record would reveal that preceding two
dates were adjourned on a reader's note, therefore,
case is adjourned to 24.11.2020 before D.B, subject to
notice to appellant and his counsel.


(Atiq ur Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

24.11.2020


Due to non-availability of D.B, the case is adjourned to
04.02.2021 for the same as before.


Reader

22.01.2020

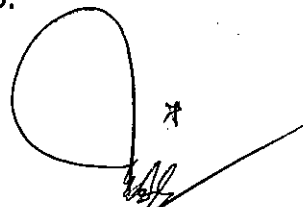
Due to general strike on the call of the Khyber Pakhtunkhwa Bar Council, learned counsel for the appellant is not available today. Mr. Kabirullah Khattak learned Additional Advocate General for the respondents present. Adjourned to 12.03.2020 for further proceedings/arguments before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member

12.03.2020

Counsel for the appellant present. Mr. Muhammad Jan, DDA for respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 12.05.2020 before D.B.


Member


Member

12.07.2019

Counsel for the appellant and Addl. AG for the respondents present. Learned AAG requested for adjourned. To come up for written reply on 06.09.2019 before S.B.


Member

06.09.2019


Junior to counsel for the appellant and Mr. Usman Ghani District Attorney alongwith Waheed Gul, ADEO for the respondents present.

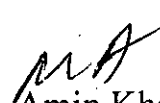
Written reply furnished by the respondents. To come up for arguments on 22.11.2019 before the D.B. The appellant may furnished rejoinder, within a fortnight, if so advised.

Chairman 

22.11.2019

Appellant alongwith his counsel and Mr. Ziaullah, Deputy District Attorney for the respondents present. Learned counsel for the appellant submitted rejoinder and seeks adjournment for arguments. Rejoinder is placed on record. Case to come up for arguments on 22.01.2020 before D.B.


(Hussain Shah)
Member


(M. Amin Khan Kundi)
Member


20.06.2019

Counsel for the appellant Amir Muhammad present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving in Education Department. He was transferred from the post of ASDEO Male Circle Ghurzai Payan Kohat to Government Middle School Behzadi Railway Kohat against newly created post vide order dated 03.05.2018. It was further contended that just after four months, the appellant was again transferred to GHSS Gumbat against vacant SST (G) post on his own pay and grade vide order dated 24.09.2018. It was further contended that the appellant filed departmental appeal (undated) to the District Education Officer which was regretted with the remarks that the appellate authority for SST is Secretary Elementary & Secondary Education Khyber Pakhtunkhwa and he may approach competent authority for the appeal vide order dated 18.10.2018 therefore, the appellant filed departmental appeal to Secretary Elementary & Secondary Education Khyber Pakhtunkhwa on 20.10.2018 although the District Education Officer was required to ^{send on} ~~sent~~ departmental appeal to Secretary Elementary & Secondary Education Khyber Pakhtunkhwa when he was not competent to decide the same under the law. It was further contended that the Secretary Elementary & Secondary Education Khyber Pakhtunkhwa has not decided the departmental appeal hence, the present service appeal. It was further contended that since the appellant has been transferred without completing his normal tenure and against the transfer posting policy therefore, the transfer order dated 24.09.2018 is illegal and liable to be set-aside.

The contentions raised by the learned counsel for the appellant needs consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notice be issued to the respondents for written reply/comments for 12.07.2019 before S.B. Learned counsel for the appellant submitted application for suspension of the operation of impugned order dated 24.09.2018. Notice of the same be also issued to the respondents for the date fixed.

Appellant Deposited
Security & Process Fee

27/6/19


(Muhammad Amin Khan Kundi)
Member

213/19

08.04.2019 Junior to counsel for the appellant present.

Requests for adjournment as learned senior counsel for the appellant is engaged before the Honourable High Court today.

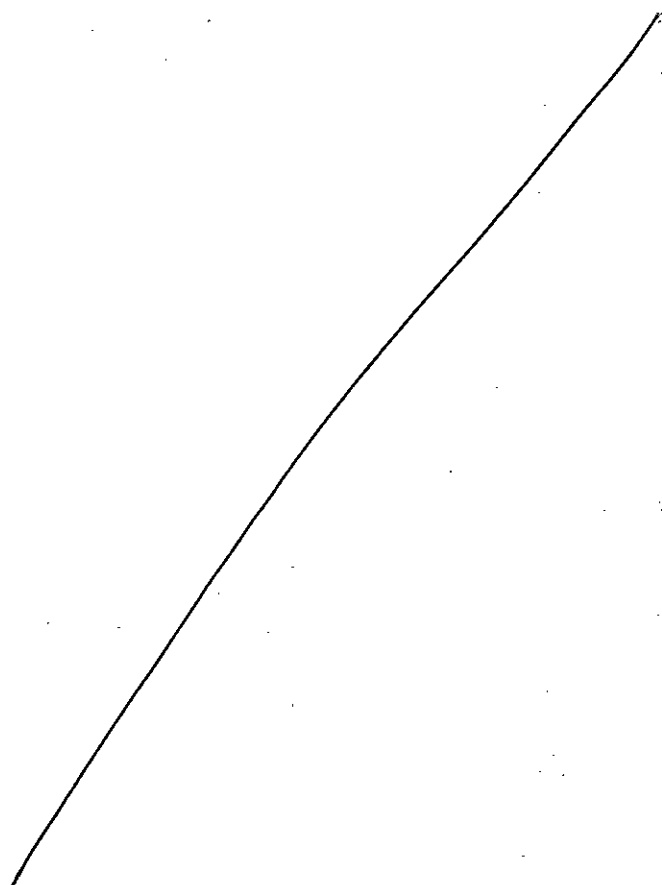
Adjourned to 09.05.2019 before S.B.


Chairman

09.05.2019 Counsel for the appellant present and seeks adjournment.

Adjourned to 20.06.2019 for preliminary hearing before S.B.

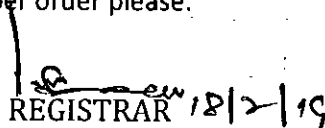


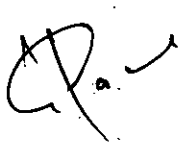

(MUHAMMAD AMIN KHAN KUNDI)
MEMBER



Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 213/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	18/2/2019	<p>The appeal of Mr. Amir Muhammad presented today by Mr. Hassan U. K Afridi Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 18/2/19</p>
2-	25.03.2019	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>25-3-19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	25.03.2019	<p>Learned counsel for the appellant present and seeks adjournment. Adjourn. To come up for preliminary hearing on 28.03.2019 before S.B</p> <p style="text-align: right;"> Member</p>
	28.03.2019	<p>Clerk to counsel for the appellant present and seeks adjournment as learned counsel for the appellant is not in attendance. Adjourn. To come up for preliminary hearing on 08.04.2019 before S.B.</p> <p style="text-align: right;"> Member</p>

08.04.2019

Junior to counsel for the appellant present.

Requests for adjournment as learned senior counsel for the appellant is engaged before the Honourable High Court today.

Adjourned to 02.05.2019 before S.B.

Chairman

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Service Appeal No. 213/2019

Amir Muhammad.....Appellant

V E R S U S

Govt. of Khyber Pakhtunkhwa through
Secretary E&SE Peshawar & others.....Respondents

I N D E X

S.N	Description of Documents	Annex	Pages
1.	Opening sheet		A
2.	Service Appeal		1-6
3.	Application for suspension		7-9
4.	Addresses of parties		10
5.	Service cards		11-12
6.	Notification/Transfer Order dt.04.04.2018		13
7.	Letter of appreciation dt.17.04.2018		14
8.	Transfer order dated 03.05.2018		15
9.	Impugned transfer order dt.24.09.2018		16
10.	Letter dated 13.06.2018 to respondent No.2		17
11.	Departmental Appeal		18
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13.	Departmental appeal dt.20.10.2018		20-21
14.	Wakalatnama		22

Appellant
Through

Dated: 15.02.2019

Hassan U.K Afridi
Advocate High Court
Cell No.0300-9151963

1

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Service Appeal No. 213 /2019

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 196

Dated 18-2-2019

Amir Muhammad S/o Abdul Karim,
Presently Posted as SST,

Government High School Gumbat Kohat.....**Appellant**

V E R S U S

1. Govt. of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar.
2. Director Elementary & Secondary Education Peshawar
3. District Education Officer (Male) Elementary & Secondary Education, Kohat
4. Deputy District Education Officer (Male) Elementary & Secondary Education, Kohat

.....**Respondents**

Filed to-day

Registrar

18/2/19

**APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT,
1974, AGAINST THE IMPUGNED TRANSFER
ORDER VIDE ORDER DATED 24.09.2018
NO.6687-88, PASSED BY THE RESPONDENT
NO.4, 3 WHICH IS AGAINST LAW/ RULES
AND IS LIABLE TO BE SET ASIDE WHILE THE
DEPARTMENTAL APPEAL FILED BY THE
APPELLANT WAS UNANSWERED**

Prayer in W.P

On acceptance of this Service Appeal the impugned transfer order No.6687-88, vide dated 24.09.2.2018 passed by the respondent No.3, 4 may kindly be set aside and the respondents may please be directed to remain/transfer the Appellant on duty in government middle school railway Kohat.

Any other relief, the Honourable Court may deem fit for the safe administration of justice.

Respectfully Sheweth:-

Facts of the case

1. That the Appellant was appointed as C.T (Teacher) on 12.11.1983 in District Kohat.
2. That from the date of appointment, the Appellant has been performing his duties well and to the best satisfaction of the superiors.

3. That due to the best performance the Appellant was selected as Assistant Sub Divisional Educational Officer and there the Appellant performed his duties well and efficiently, due to the reason, respondent No.4, sent a letter to respondent No.2, to be kept, held in abeyance, the said post of Appellant as ASDO.
4. That Deputy Director passed transfer order vide dated 04.04.2018, of the Appellant at the disposal of District Educational Officer (Respondent No.3).
5. That respondent No.4, then passed an order vide dated 03.05.2018, No.376-F69, and transfer the Appellant, as per direction to Govt. Middle School Behzadi Railway Kohat
6. That again respondent No.4, transfer the Appellant from Govt. Middle School Behzadi Railway to Govt. High School Gumbat as SST(G), vide dated 24.09.2018 Order No.6687-88.
7. That feeling aggrieved the Appellant filed departmental appeal which was returned on the reason that the said departmental appeal may file before the respondent No.1, then the appellant

field appeal before the competent authority, which has remained unanswered hence this service appeal on the following amongst the other grounds:

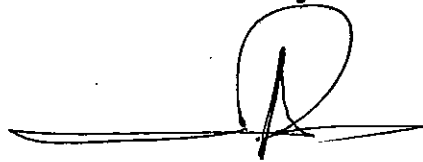
GRUNDS:-

- A. That the impugned order vide dated 24.09.2018 is against law/rules, justice, and is liable to be set aside.
- B. That the Appellant has not been dealt in accordance with law and rules.
- C. That the impugned transfer order of the Appellant, vide dated 24.09.2018 is based on malafide, hence not tenable in the eyes of law.
- D. That the Appellant has been two times transferred in a five months, without any legal justification.
- E. That the purpose of transfer is only to politically victimize the Appellant.
- F. That there was a ban on transfer but the Appellant has transferred illegally, and with malafide, intention, just for victimization.

- G. That respondent No.4 has sent a letter of appreciate of the Appellant to respondent No.2, but the respondent No.2, transferred the Appellant without any justification.
- H. That some other grounds may be adduced at the time of arguments, with the permission of this August Court.

It is therefore humbly prayed that on acceptance of this Service Appeal the impugned transfer order No.6687-88, vide dated 24.09.2018 ✓ passed by the respondent No.3, 4 may kindly be set aside and the respondents may please be directed to remain/transfer the Appellant on duty in government middle school railway Kohat ✓

Any other relief the Honourable Court may deem fit for the safe administration of justice.



Appellant

Through



Hassan U.K. Afridi
Advocate High Court

Dated: 15.02.2019

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

Service Appeal No. _____/2019

Amir Muhammad.....**Appellant**

V E R S U S

Govt. of Khyber Pakhtunkhwa through
Secretary E&SE Peshawar & others.....**Respondents**

A F F I D A V I T

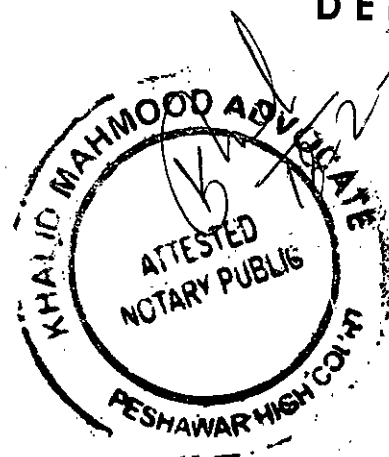
I, Amir Muhammad S/o Abdul Karim, Presently Posted as SST, Government High School Gumbat Kohat, do hereby solemnly affirm and declare on oath that the contents of the accompanying **service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Identified by

Hassan U.K Afridi
Advocate High Court



DEPONENT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

C.M No. _____/2019

In

Service Appeal No. _____/2019

Amir Muhammad.....**Appellant**

V E R S U S

Govt. of Khyber Pakhtunkhwa through
Secretary E&SE Peshawar & others.....**Respondents**

**Application for suspension of the
operation of impugned order dated
24.09.2018, till the final decision of the
revision petition.**

Respectfully Sheweth:

1. That the accompanying civil service appeal is being filed before this Hon'ble Court, in which no date of hearing has yet been fixed.
2. That the appellant has got a good prima facie case in his favour, and are sanguine about its success.
3. That the balance of convenience also lies in favour of the appellant.

4. That if the order dated 24.09.2018 not suspended, and then the appellant would suffer irreparable loss.
5. That the facts and grounds of the appeal may kindly be read as an integral part of this application.

It is, therefore, respectfully prayed that on acceptance of this application, the impugned order dated 24.09.2018 may kindly be suspended, till the final decision of the case.

Appellant
Through

Dated: 15.02.2019


Hassan U.K Afridi
Advocate High Court

BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR

C.M. No. _____/2019
in
Service Appeal No. _____/2019

Amir Muhammad.....**Appellant**

V E R S U S

Govt. of Khyber Pakhtunkhwa through
Secretary E&SE Peshawar & others.....**Respondents**

A F F I D A V I T

I, Amir Muhammad S/o Abdul Karim, Presently Posted as SST, Government High School Gumbat Kohat, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Application for suspension** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Identified by

DEPONENT

Hassan U.K Afridi
Advocate High Court



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Service Appeal No. _____/2019

Amir Muhammad:.....**Appellant**

V E R S U S

Govt. of Khyber Pakhtunkhwa through
Secretary E&SE Peshawar & others.....**Respondents**

ADDRESSES OF PARTIES

PETITIONER:-

Amir Muhammad S/o Abdul Karim,
Presently Posted as SST,
Government High School Gumbat Kohat

R E S P O N D E N T S :-

1. Govt. of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Civil Secretariat, Peshawar
2. Director Elementary & Secondary Education Peshawar
3. District Education Officer (Male) Elementary & Secondary Education, Kohat
4. Deputy District Education Officer (Male) Elementary & Secondary Education, Kohat

Appellant
Through

Hassan U.K Afridi
Advocate High Court

Dated: 15.02.2019

GOVERNMENT OF KHYBER PAKHTUNKHWA
Education Department

11

AMIR MOHAMMAD
BPS. 16



Personal No .00164913



Principal
M.S. & Gumbat
(Kohat)
Issuing Authority

SERVICE IDENTIFICATION CARD

Father/Husband Name: Abdul Karim
CNIC No. 14301-1956614-9 Date of Birth: 01-06-1965
Mark Of Identification: Wond On Lt Hand
Issue Date: 15-12-2018 Date of App: 12-11-1983
Designation: S.S.T Blood Group: B+
Emergency Contact No: 0333-9632354 Qualification: B.A.B.ED
Home Address. Vill Togh Bala Teh & Distt Kohat

Office Address: Govt Higher Secondary School Gumbat Kohat Pakistan



AMIR MOHAMMAD
[Signature]


1

Handwritten notes or scribbles in the top right corner.

GOVT OF KHYBER PAKHTUNKHWA
EDUCATION DEPARTMENT KOHAT

AMEER MOHAMMAD
S-16)

Pers #: 00164913
Office: Elementary and Secondary
Education Department




W.S. 16

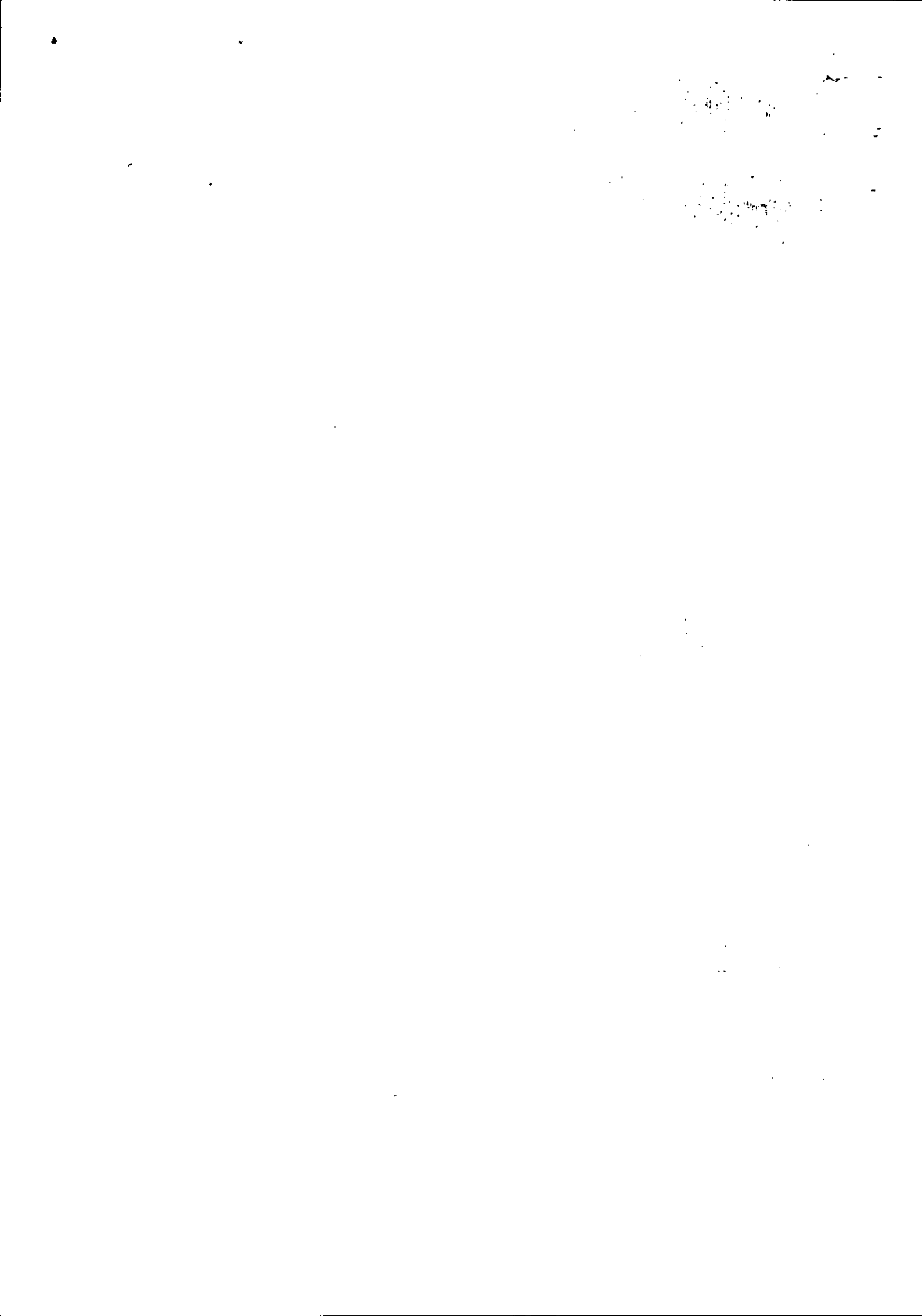
SERVICE IDENTITY CARD

(Handwritten 'R' in a circle to the right)

Name: Ameer Mohammad
Father's Name: Abdul Karim
CNIC No: 14301-1550014-0
Date of Birth: 01-08-1965
Apptt Date: 12-11-1993
Mobile No: 0333-8932354
Blood Group: AB+ve
Place of Duty: SDEO Office Kohat
Address: Village & P.O. Togh Bala Kohat



(Handwritten signature)



(Annexure A)

13

OFFICE ORDER

The services in respect of the following SSTs working against the post of ASDEO/ADEO are hereby placed at the disposal of District Education Officer (Male) Kohat for further posting against the vacant post of SSTs in their own pay & BPS in the interest of public service with immediate effect.

1. Mr. Abdul Rauf SST/ADEO (P&D) O/O DEO (F) Kohat.
2. Mr. Amir Muhammad ASDEO (M) Circle Ghurzai Kohat.

Note:-

1. Charge report should be submitted to all concerned.
2. No TA/DA etc are allowed.

Endst. No. 437-31 / F.No.436/Vol-27/ADEO (M) Transfers Kohistan.

Dated Peshawar the 4/4 /2018

Copy of the above is forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa, Peshawar
2. District Education Officer (M&F) Kohat.
3. District Accounts Officer Kohat.
4. Officials concerned.
5. PA to Director (E&SE) Khyber Pakhtunkhwa, Peshawar.
6. Master File.

[Handwritten signature]

[Handwritten signature]
Deputy Director (E&SE)
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

[Handwritten signature]

[Handwritten signature]
4/4/18

[Handwritten signature]



19

OFFICE OF THE DISTRICT
EDUCATION OFFICER (MALE)
KOHAT

No. 3425 /

Dated Kohat the
Ph & Fax: 0922-9260294

2018

To

The Director,
Elementary & Secondary Education,
Khyber Pakhtunkhwa Peshawar

Subject:

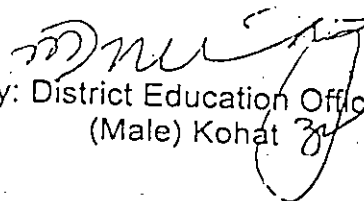
REVIEW THE MATTER OF MR. AMIR MUHAMMAD SST, WORKING AS
ASDEO(M) AT SDEO (M) KOHAT

Memo:

I am directed to refer to your good office notification No. 937-39/F.No 436/Vol-27/ADEO(M) Transfers Kohistan dated: 04-04-2018 regarding transfer of Mr. Amir Muhammad SST and to state that:

- 1) Mr. Amir Muhammad ASDEO(M) Kohat, presently on the disposal of this office, is performing his duties efficiently.
- 2) SDEO (M) Kohat is satisfied with his duties. (copy attached as annexure "A").
- 3) He has been appointed as Assistant Reg. Officer (ARO) by election commission of Pakistan (copy attached as annexure "B")

Keeping in view the above mentioned factors, it is therefore requested that either his transfer order may be cancelled or may be kept held in abeyance as the activities running in Tehsil Kohat may suffer as a result of his transfer at this critical moment.

 17/4/18
Dy: District Education Officer
(Male) Kohat

Endst: No. _____ /

Copy of the above is forwarded to the: -

1. Sub: Divl: Education Officer (Male) Kohat w/r to his letter No. & date cited above for information.
2. Office copy.

Dy: District Education Officer
(Male) Kohat



(B)

15

OFFICE OF THE
DISTRICT EDUCATION OFFICER (MALE) KOHAT

ADJUSTMENT ORDER

Consequent upon the approval of competent authority, as per direction of Worthy Director, Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar vide No. 7090-95/F.No.436 Vol-II/ADEO (M) Transfers dated: 02-05-2018, the following ASDEOs are hereby adjusted as per given detail, on their own pay and scale in the interest of public service with immediate effect.

S.No	Name of ASDEO	Adjusted at	Remarks
1	Amir Muhammad ASDEO (M) Circle Ghurzai Payan Kohat	GMS Behzadi Railway Kohat	NCP
2	Muhammad Sharif ADEO (M) Management Cadre under transfer from Hangu	ADEO (M) Circle Ghurzai Payan Kohat	Vice Sr. No. 1

NOTE:

1. Charge report should be submitted to all concerned.
2. No TADA is allowed.

District Education Officer
(Male) Kohat

Endst: 3765-69 /Adj /General Transfer

Dated 03/05 2018

Copy of the above is forwarded to the:-

1. Director, Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. District Comptroller of Accounts, Kohat.
3. District Monitoring Officer Kohat.
4. SDEO(M) Kohat
5. Accountant (Middle Schools) Local Office.

DMU 3/5/18
Dy: District Education Officer
(Male) Kohat

M. H. Khan



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) KOHAT

TRANSFER ORDER

Consequent upon the approval of the competent authority, Mr. Ameer Muhammad Khan SST (G) GMS Behzadi Rawilay Kohat is hereby transferred to GHSS Gumbat against vacant SST (G) Post on his own pay and grade in the interest of public service with immediate effect.

Charge report should be submitted to all concerned
NoTA/DA is allowed

DISTRICT EDUCATION OFFICER

Endst.No. 6687-88

dated 24/9 /2018

Copy to the:-

1. Director E&SE Khyber Pakhtunkhwa Peshawar
2. District Accounts Officer Kohat
3. DMO IMU Kohat
4. Principal concerned
5. Official concerned Kohat

24/9/18
DY: DISTRICT EDUCATION OFFICER
(MALE) KOHAT

[Handwritten signature]



OFFICE OF THE DISTRICT
EDUCATION OFFICER (MALE)
KOHAT

No. 4679 Dated: 13/06/2018

To

The Director,
Elementary & Secondary Education,
Khyber Pakhtunkhwa Peshawar

Subject: **GUIDANCE REGARDING YOUR OFFICE ORDER NO. 1052-56
DATED: 05-06-2018**

Memo:

I am directed to refer to the subject noted above and to state that: -

- 1) The services of Mr. Amir Muhammad ASDEO (T/C) Circle Ghurzai Tehsil & District Kohat were placed at the disposal of this office vide your office No. 937-39 dated: 04-04-2018, for further adjustment. (Order dated: 04-04-2018 is attached as annexure "A").
- 2) This office adjusted Mr. Amir Muhammad as SST(G) at GMS Behzadi Railway Kohat vide this office No. 3765-69 dated: 03-05-2018. (Adjustment order is attached as annexure "B").
- 3) The services of Mr. Muhammad Sharif ADEO (M) Hangu M/C were placed at the disposal of this office vide your office No. 7090-95 dated: 02-05-2018 for further adjustment against vacant ADEO Post. (Order dated: 02-05-2018 is attached as annexure "C")
- 4) Consequently, this office adjusted Mr. Muhammad Sharif ADEO (M/C) against the vacant post of ASDEO (M) Ghurzai Circle Kohat vide this office No. 3765-69 dated: 03-05-2018. (Order dated: 03-05-2018 is attached as annexure "D").
- 5) This office submitted report to review transfer order of Mr. Amir Muhammad on 17-04-2018 but M. Sharif ADEO (M) M/C Hangu was transferred & hence adjusted on 03-05-2018. It seems that his order has been held in abeyance as a result of misunderstanding between this office and Directorate.
- 6) Both Mr. Muhammad Sharif ADEO MC and Mr. Amir Muhammad have submitted their taking/handing overcharge reports to respective stations and drawn their salaries for the month of May from new DDO code. (Pay slips are attached as annexure "E")
- 7) Muhammad Sharif ASDEO Ghurzai circle (M/C) is performing duties as Assistant Returning Officer in the General Election 2018 & has taken oath of his duty with Honourable Additional District Judge-II Kohat, i.e Returning Officer (Duty certificate is attached as Annexure "F").
- 8) Now, your office has issued another order No. 1052-56 dated: 05-06-2018, in which the transfer order of Mr. Amir Muhammad dated: 04-04-2018 is declared as held in abeyance, while it is necessary to mention here detail of all posts of ADEOs & ASDEOs, which are filled & detail is as under:

S.No	Name	Post Held	Cadre	Remarks
1	Hafiz Zia Ullah	ASDEO MC Area	Management	
2	M. Sharif	ASDEO Ghurzai	Management	
3	Arshad Mehmood	ASDEO Jerma	Teaching	
4	Nazir Badshah	ASDEO Lachi	Teaching	
5	Arshad Sharif	ADEO (P&D)	Management	
6	Abdullah Khan	ADEO (Estb)	Management	
7	Abid Hussain	ADEO (Estb)	Management	
8	Aman Ullah Khan	ADEO(Sports)	Teaching	

Hence, report is submitted for your kind perusal and further necessary action please.

Endst: No. 4680-81

Dy: District Education Officer
(Male) Kohat

- Copy of the above is forwarded for information to the: -
- 1) PA to DEO (Male) Kohat
 - 2) Office Copy.

Dy: District Education Officer (M)

To

The District Education Officer,
(Male) Kohat.

Subject: APPEAL

Sir,


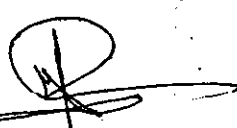
With compliment, I may kindly be excused to draw your kind attention to the transfer order issued vide No. 6687-88 dated 24/9 /2018 and feel myself courageous to furnish my grievances as below:-

1. I have served as ASDEO (Male) Kohat wef 11/01/2015 to 04/04/2018 and leave no stone unturned and performed my duties with diligent, devotion to the entire satisfaction of my high ups and always remain courteous with teachers community.
2. That suddenly rather unexpectedly transferred as SST at GMS Behzadi Railways Kohat, on the directives of blue eye one and without any hesitation coupled with relinquished charge and taken over as SST in the Said school on 12/04/2018 and continue my services there.
3. I am astonish to see that I have been transferred without any fault to GHSS Gumbat Kohat within a span of 06 months which is signify that I am politically victimized where as I am not involved in any type of politics and have no affiliation with any political party, and put me in agony and metal torture.

Sir, in the prevalent circumstances how can it possible for any Govt: servant to serve under the fear of unknown another transfer.

Hence it is solicited that my transfer order may be cancelled, enabling me to leave the sight of relief, otherwise I reserve my right to save in court of law to erect discipline and justice.

Yours faithfully



AMIR MUHAMMAD
SST GMS Behzadi Raiways
Kohat.

Copy in advance forwarded to Director E.S.E
KDK for similar consideration.



OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) KOHAT



No. 2666 /

Dated Kohat the 18-10-2018

To

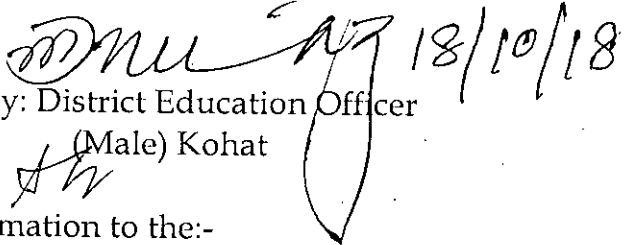
Mr: Amir Muhammad
SST GMS Behzadi Railway Kohat

Subject: APPEAL

Memo:

I am directed to refer to the noted above and to state that your appeal for cancellation of transfer order No. 6687-88 dated 24-09-2018 is hereby regretted with the remarks that appellant authority for SSTs is Secretary Elementary & Secondary Education Department Khyber Pakhtunkhwa Peshawar, you may approach to the competent forum for appeal.


Hence, you are directed to resume your duty at GHSS Gumbat Kohat within two(02) days under intimation to this office with immediate effect in which case your salary will be stopped from the DDO of middle schools.


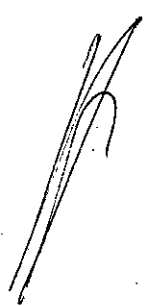

Dy: District Education Officer
(Male) Kohat

Endst: No. _____

Copy of the above is forwarded for information to the:-

1. Principal, GHSS Gumbat Kohat
2. Office Copy


Dy: District Education Officer
(Male) Kohat

To

The Secretary,
Elementary & Secondary Education,
Khyber Pakhtunkhwa,
Peshawar.

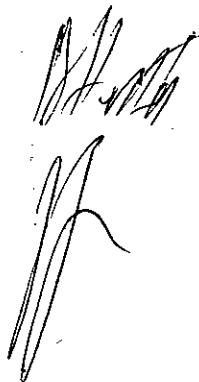
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Subject: A P P E A L

Sir,

With compliment, I may kindly be excused to draw your kind attention to the transfer order issued vide No. 6687-88 dated 24/09/2018 and feel myself courageous to furnish my grievances as below:-

1. I have served as ASDEO (Male) Kohat wef 11/01/2015 to 04/04/2018 and leave no stone unturned and performed my duties with diligent, devotion to the entire satisfaction of my high ups and always remain courteous with teachers community.
2. That suddenly rather unexpectedly transferred as SST at GMS Behzadi Railways Kohat, on the directives of blue eye one and without any hesitation coupled with relinquished charge and taken over as SST in the Said school on 12/04/2018 and continue my services there.
3. I am astonish to see that I have been transferred without any fault to GHSS Gumbat Kohat within a span of 06 months which is signify that I am politically victimized where as I am not involved in any type of politics and have no affiliation with any political party, and put me in agony and metal torture.



4. During General Elections 2018, I was appointed as Assistant Returning Officer, NA-32 Kohat, but I was not assigned duty as Assistant Returning Officer, as the appointment was designated, in this regard District Education Officer, (Male) Kohat, also submit a letter bearing Endt: No. 3425 dated 17/04/2018, to review my transfer order No. 937-39/F.No.436/Vol-27/ADEO(M) Transfer Kohistan/ dated 04/04/2018, in my favour with the request that either transfer Order No. 937-39/F.No.436/Vol-27/ADEO(M) Transfer Kohistan/ dated 04/04/2018, may be cancelled or may be kept held in abeyance. Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar issued an order No.1052-56 dated 05/06/2018, in which transfer Order No. 937-39/F.No.436/Vol-27/ADEO(M) Transfer Kohistan/ dated 04/04/2018 declared as held in abeyance.


5. After taking over charge at GMS Behzadi Railways Kohat, I once again transferred to GHSS Gumbat Kohat vide letter No. 6687-88 dated 24/09/2018, to cancel my transfer order No. 6687-88 dated 24/09/2018 I appealed to the District Education Officer, (Male) Kohat dated 10/10/2018, but the authority regretted my appeal with the remarks that "appellant authority for SSTs is Secretary Education Elementary & Secondary Education Department Khyber Pakhtunkhwa Peshawar.", and also directed me to forthwith resume duty at GHSS Gumbat Kohat, failing which salary will be stopped. (Copy attached for ready reference).

Sir, in the prevalent circumstances how can it possible for any government servant to serve under the fear of unknown another transfer.

Hence it is solicited that my transfer order may be cancelled, enabling me to leave the sight of relief, otherwise I have reserve my right to save myself in the court of law to erect discipline and justice.

Dated ___/10/2018

Yours faithfully


(AMIR MUHAMMAD)
SST GMS Behzadi Railways
Kohat.

بعدالت حسرت منظر جو وہ سردی نثر اس کی مثل میں

کورٹ فیس

مقدمہ
مقدمہ
دعویٰ
جرم

امیر محمد بنام گورنمنٹ آف پاکستان
باعت مجری آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جوابدہی کل کاروائی متعلقہ آں مقام کے لیے حسن۔ جو۔۔۔ کر کے اس کے لیے درخواست کی گئی ہے۔

مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا اختیار ہوگا۔ نیز وکیل صاحب کو کرنے راضی نام و تقرر ثالث و فیصلہ بر حلف دینے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرانے اجرا اور وصولی چیک در روپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق زرا اس پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری ایک طرفہ یا اپیل کی برآمدگی اور منسوخی و نیز دائر کرنے اپیل نگرانی، نظر ثانی، پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کے کل یا جزو کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا۔ دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا اس کے مستحق کیا صاحب موصوف ہوں گے نیز بقایا خرچہ کی وصولی کرنے کا بھی اختیار ہوگا۔ اگر کوئی تاریخ پیشی مقدمہ پر ہو یا حد سے باہر ہو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند رہے۔

20ء

ماہ

المقوم

کے لیے منظور ہے

مقا

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR SERVICE APPEAL NO: 213/2019

Amir Muhammad S/O Abdul Karim Presently posted as SST GHSS Gumbat Kohat
..... **Petitioner**

V E R S U S

District Education Officer (Male) Kohat & others **Respondents**

Affidavit

I, District Education Officer (Male) Kohat do hereby solemnly affirm and declare on oath that the contents of the accompanying Parawise comments are true and correct to the best of my knowledge and belief and nothing has been concealed withheld from this Honourable Tribunal.

Deponent

Dated 26.08.2019


DISTRICT EDUCATION OFFICER
(MALE) KOHAT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR SERVICE APPEAL NO: 213/2019

Amir Muhammad S/O Abdul Karim Presently posted as SST GHSS Gumbat Kohat
..... **Petitioner**

VERSUS

1. Govt of Khyber Pakhtunkhwa Through Secretary Elementary & Secondary Education Civil Secretariat, Peshawar
2. Director Elementary & Secondary Education Peshawar
3. District Education Officer (Male) Kohat
4. Dy District Education Officer (Male) Kohat **Respondents**

Parawise Comments on behalf of respondent no: 1, 2, 3& 4

Preliminary Objections:-

1. That the appellant has got no locus standi to file instant appeal.
2. That the appellant has concealed material facts from the Honourable Tribunal
3. That the appellant has not come to this Court with clean hands
4. That the instant appeal is not maintainable in the eyes of law.
5. That the appellant is based upon malicious/ vexatious and frivolous grounds.

Respectfully sheweth

Facts


1. Pertain to record.
2. Incorrect, that the applicant had performed duty as teacher under the direct supervision of Principals/Headmasters concerned, but being an ASDEO the appellant has performed his duty with lethargic attitude from the day one.
3. Incorrect, to keep the record straight, the appellant was never selected as Assistant sub Divisional Education Officer by any competent selection board; rather he was ✓ adjusted in stopgap arrangement, against the ASDEO post. The respondent No 04 on behalf of Respondent No: 3 requested the respondent No: 02 to keep the transfer order "held in abeyance" due to the fact that the appellant was appointed as ARO by the Election Commission of Pakistan.
4. Admitted to the extent that as per policy of Elementary & Secondary Education Department only officials of the management cadre are supposed to be appointed against the ASDEO post. The adjustment of the appellant on post & from teaching cadre as an ASDEO was merely a stop gap arrangement; hence, the transfer or appellant was inevitable to accommodate the officer from Management cadre.
5. Pertain to record.
- ✓ 6. Admitted to the extent that the appellant was adjusted as SST (General) at Govt Middle School Behzadi Chikarkot Kohat against the newly upgraded /Newly created post in May.2018, However in Sept 2018 it was observed that enrolment at GMS

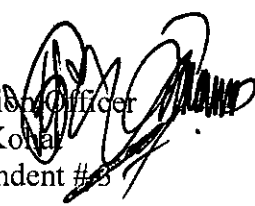
- Behzadi Chikarkot was not enough, therefore the appellant was Re-adjusted at Govt: ✓
Higher Secondary School Gumbat Kohat on need basis, purely in the public intrest.
7. The appellant was transferred to GHSS Gumbat Kohat absolutely on need basis, quite in public intrest. Moreover transfer of the officer/ official can not be termed as punishment but it is a part of service and carrying out in exigency of service because respondents Department can not have any malafide against any one. ✓


GROUNDS

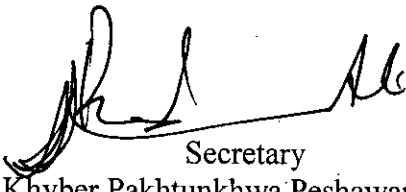
- A. Incorrect, the impugned order vide dated 24.09.2018 is absolutely according to the law/Rules and justice.
- B. Incorrect, the appellant has been dealt in accordance with law and rules.
- C. Incorrect, the impugned transfer order of the appellant vide dated 24.09.2018 is bonafide and in the public intrest and hence tenable in the eyes of law.
- D. Incorrect, both the transfer orders of the appellant were issued purely in the public intrest. Having perfect legal justification, as stated vide para 3 & 4 above.
- E. Incorrect, as stated vide para 3 & 4 above.
- F. Incorrect No ban on transfer was imposed by high ups during the course of issuing the impugn order.
- G. Incorrect, the transfer order of the appellant was " **held in abeyance** with intention that the appellant was nominated as ARO from the start of Election Process with Election Commission of Pakistan, in the mid of on going election process the new comer would face great difficulty to overcome the situation. In order to rectify the expected hindrances, he was recommended to be retained on the post of ASDEO (M) Kohat till the finalization of election.
- H. The respondent department would adduce some other grounds at the time of hearing with the permission of this Honourable Tribunal.

It is therefore humbly prayed before this learned court to dismiss the Service appeal with cost


DY District Education Officer
(Male) Kohat
Respondent #4


District Education Officer
(Male) Kohat
Respondent #3


Director
Elementary & Secondary Education Deptt
Peshawar.
Respondent # 2


Secretary
Govt. of Khyber Pakhtunkhwa Peshawar
Elementary & Secondary Education Deptt
Peshawar
Respondent # 1

BEFORE THE KHYBER PAKHTUNKHAWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO:213/2019

Amir Muhammad S/O Abdul Karim Present Post as SST GHSS Gumbat Kohat
..... **Petitioner**

VERSUS

District Education Officer (Male) Kohat & others
..... **Respondents**

Rejoinder on behalf of appellat

Preliminary objection;

1. That the entire preliminary objection has been taken by the respondent is not applicable on the present appeal and is irrelevant.

FACTS:

1. That Para no.1 needs no reply
2. That Para no.2 is incorrect because the EDO himself sends a letter to the director of the good performance of the appellat.
3. That Para no3 is incorrect the appellat was appointed ASDEO by the competent authority under the rules.
4. That Para no.4 is denied as there is policy according to which if an official of the management cadre is not available then a suitable official of the teaching cadre can be appointed as ASDEO post, as there is no official available of the management cadre.
5. That Para no.5 needs no reply.
6. That Para no.6 the appellat has been transfer three times at short Spain of time which is against the policy/rules:

GROUND:

- A. That Para no.A is incorrect.
- B. That Para no.B is also incorrect.
- C. That Para no.C is incorrect because the transfer orders against the policy/rules.
- D. That Para no.D is incorrect the transfer order, are the violation of policy.
- E. That Para no.E is incorrect.
- F. That Para no.F is incorrect.
- G. That the Para no.G is incorrect, without justification.
- H. That the Para no. H needs no reply.

**It is therefore most humbly
prayed that appeal file by the
appellant may please be allowed
as prayed for.**

Appellant

Through

**Hassan U.K Afridi
Advocate Supreme Court.**

22-11-2019

&

Muhammad shafiq

Advocate high court Peshawar.