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

Appeal No. 911/2019

Date of Institution ...

... 11.07.2019

Date of Decision

... 04.10.2019

Mr. Muhammad Hanif, PSHT GPS, Khushal Garh.

(Appellant)

**VERSUS** 

The Secretary, Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar and three others.

. (Respondents)

PRESENT:

MR. TAIMUR ALI KHAN,

Advocate

-- For appellant.

MR. KABIRULLAH KHATTAK,

Additional Advocate General

--- For respondents.

MR. ASIF ALI SHAH,

Advocate

For respondent no.4

MR. AHMAD HASSAN,

... MEMBER(Executive)

MR. MUHAMMAD AMIN KHAN KUNDI

MEMBER(Judicial)

### JUDGMENT:

AHMAD HASSAN, MEMBER:- Arguments of the learned counsel for the parties heard and record perused.

#### **ARGUMENTS:**

Dearned counsel for the appellant argued that impugned order dated 01.06.2019, he was transferred from GPS no.1 Gumbat to GPS, Khushal Ghar, District Kohat on administrative grounds. During the course of arguments, he further stressed that only ground on which, he was pleading the present service appeal was of transfer on administrative grounds which was against the policy of the provincial government. The term administrative ground is not listed as penalty in Rule-4 of E&D Rules 2011. He also



conceded at the bar that the appellant had completed normal tenure at the place of previous posting.

- He further argued that a visit to GPS Gumbat no.1 was carried out by SDEO (M) Kohat on 27.04.2019 and gave directions to conduct detailed enquiry into the matter. Enquiry was conducted and as per report dated 08.07.2019, the appellant was not held guilty of the allegations against him but it was the sole ground that led to his transfer to the present place of posting.
- O4. Learned counsel for the private respondent no.4 argued that the appellant had completed normal tenure at GPS, Gumbat, whereas private respondent no.4 hailing from Gumbat, remained posted outside his home town for the last thrity year including Khushal Ghar. He got a chance to serve aim his home town after a wait of thirty years. The learned counsel for the appellant was using transfer on administrative grounds as a lame excuse. Moreover, the appellant was also involved in other illegalities.
- 05. Learned Additional Advocate General relied on arguments advanced by the learned counsel for private respondent no.4.

### **CONCLUSION:**

06. The appellant after having completed normal tenure of GPS no.1 Gumbat was transferred to GPS, Khushal Ghar on administrative grounds. It merits to mention here that there is a distance of 25 KM between the two stations. On 27.04.2019 SDEO (M) Kohat paid a surprise visit to GPS no.1 Gumbat and directed to conduct detailed enquiry. The matter was probed by Mr. Muhammad Nawaz, Principal, GHSS, Billitang, Kohat and charges leveled against the appellant were not proved, however, according to learned counsel for the appellant this enquiry report was very much instrumental in transfer of the appellant referred to above.

We have gone through the record and observed and carefully examined the plea of the learned counsel for the appellant including implications of transfer on administrative grounds in the light of numerous judgments of the superior courts. It is pertinent to point out that every case has its own peculiar features and that forms the basis for distinction, while handing down judgment. In the present service appeal the appellant has completed normal tenure at GPS no. 1 Gumbat, whereas private respondent no.4 remained posted at GPS, Khushal Ghar for almost thirty years. Though both the officials belong to Gumbat but the appellant has already enjoyed posting at his home town. It is imperative why private respondent no.4 should he made a escapegoat to give undue advantage to the appellant on technical ground, while on merit his case is worthless. A government servant cannot claim a posting of his choice and that too without any cogent reason/justification. Private respondent no.4 has a very strong case on merit coupled with Section-10 of Khyber Pakhtunkhwa Civil Servants Act, 1973, where a civil servant is required to be served anywhere in the province. Moreover, case law relied upon by the private respondent no.4 1999 SCMR 2482 is very much relevant in the appeal in hand. Moreover, we have not found any malafide, ill will, malice and personal grudge of the respondents against the appellant and the matter was decided on merit by the departmental authority.

8. As a sequel to the above, the instant appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.

(AHMAD HASSAN) MEMBER

(MUHAMMAD AMIN KHAN KUNDI)

MEMBER

<u>ANNOUNCED</u> 04.10.2019 01.10.2019

Appellant alongwith his counsel present. Mr. Riaz Ahmad, Paindakheil, Assistant AG alongwith Mr. Waheed Gul, ADEO for official respondents No. 1 to 3 and private respondent No. 4 alongwith junior counsel present. Junior counsel for private respondent No. 4 seeks adjournment on the ground that learned senior counsel is busy before the worthy Peshawar High Court and cannot attend the Tribunal today. Adjourned to 04.10.2019 for arguments before D.B.

(AHMAD HASSAN) MEMBER

(M. AMIN KHAN KUNDI) MEMBER

### <u>Order</u>

04.10.2019

Appellant with counsel present. Additional Advocate General alongwith Mr. Waheed Gul, ADEO for official respondents no. 1 to 3 and counsel for private respondent no.4 present. Arguments heard and record perused.

Vide our detailed judgment of today of this Tribunal placed on file, the appeal is dismissed. Parties are left to bear their own cost. File be consigned to the record room.

Announced: 04.10.2019

(Ahmad Hassan) Member

(Muhammad Amin Khan Kundi) Member Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Mr. Waheed, SDO for respondents present.

Representative of the official respondents has submitted para-wise comments on behalf of respondents No. 1 to 3. Mr. Asif Ali Shah, Advocate has submitted Wakalat Nama on behalf of respondent no.4 and requests for further time to furnish the requisite reply. May, do so, positively, on the next date of hearing.

Adjourned to 23.08.2019 before S.B.

Chairman

23.08.2019

Junior to counsel for the appellant and Addl. AG alongwith Waheed Gul, ADEO for the official respondents and private respondent No. 4 in person present.

Respondent No. 5 has submitted written reply while official respondents No. 1 to 3 have already submitted their parawise comments. The appeal is assigned to D.B for arguments on 04.09.2019. The appellant may submit rejoinder, within a fortnight, if so advised.

Chairman<sup>3</sup>

04.09.2019

Learned counsel for the appellant present. Mr. Usman Ghani learned District Attorney for the respondents present. Learned counsel for the appellant submitted rejoinder which is placed on file and seeks adjournment. Adjourned. To come up for arguments on **Q\$**.10.2019 before D.B.

(Hussain Shah) Member (M. Amin Khan Kundi) Member 15.07.2019

It is contended by learned counsel that the appellant while serving as PHST was transferred from GPS No. 1 Gumbat to GPS Kyushu Garh on 10.06.2019. Being a domicile of Gumbat and carrying the same as permanent address in the CNIC the transfer of appellant was in violation of Khyber Pakhtunkhwa (Appointment, Deputation, Posting and Transfer of Teachers, Lecturers, Instructors and Doctors) Regulatory Act, 2011. In that regard he referred to Section 3 of the Act wherein it is, inter-alia, provided that a PST shall be transferred to other school within the Union Council on completion of tenure. That, in the instant case the impugned transfer of appellant was to a place falling in different Union Council not even adjoining the Union Council of domicile of appellant. In the said manner the impugned transfer was against the law. A departmental appeal was submitted by the appellant which was rejected on 10.07.2019.

In view of the arguments of learned counsel and available record, 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 30.07.2019 before S.B.

Alongwith the appeal there is an application for suspension of operation of impugned order. Notice of application shall also be given to the respondents for the date fixed.

Chairman

Appelled Process Fee

### Form- A

### FORM OF ORDER SHEET

Court of	
Case No	911/ <b>2019</b>

	Case No	911/ <b>2019</b>
S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	. 3
1-	11/07/2019	The appeal of Mr. Muhammad Hanif presented today by Mr. Taimur Ali Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.
		REGISTRAR 117)19
2-	15/07/19	This case is entrusted to S. Bench for preliminary hearing to be put up there on 15107119
	·	CHAIRMAN
		CHAIRIMAN
,		
	•	

### BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Muhammad Hanif

V/S

Education Deptt:

### **INDEX**

S. No.	Documents	Annexure	P. No.
01	Memo of appeal		01-04
02	Suspension application		05-06
03	Copy of report	A	07-08
04	Copies of order dated 10.06.2019	В	09
05	Copies of departmental appeal and	C&D	10-11
	rejection order dated 10.07.2019		,
06	Copy of Regulatory Act 2011	E	
07	Copies of letter dated 26.06.2019 and	F&G	
	inquiry report		
08	Copy of posting transfer policy	Н	
09	Vakalat Nama		

APPELLANT

THROUGH:

(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT
&

(ASAD MAHMOOD) ADVOCATE HIGH COURT

Room No. FR 8, 4<sup>th</sup> Flour, Bilour plaza, Peshawar cantt: Cell# 0333-9390916

### BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 911 /2019

Chyber Pakhtukhwa Service Tribunat

Diary No. 948

Mr. Muhammad Hanif, PSHT GPS, Khushal Garh.

(APPELLANT)

#### **VERSUS**

- 1. The Secretary, Elementary & Secondary Education, Khyber Pakhtunkhwa Peshawar.
- 2. The Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
- 3. The District Education Officer, (Male), Kohat.
- 4. Mr. Muhammad Afzal, PSHT GPS No.1, Gumbat, Kohat.

(RESPONDENTS)

Filedto-day
Registrar,
/////2019

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 10.07.2019, WHEREBY THE DEPARTMENTAL APPEAL APPELLANT HAS BEEN REJECTED AGAINST THE ORDER 10.06.2019, WHEREBY THE **APPELLANT** TRANSFERRED GPS NO.1 GUMBAT TO GPS KHUSHAL GARH IN UTTER VIOLATION OF SUB SECTION (3) OF OF · **KHYBER PAKHTUNKHWA** (APPOINTMENT, DEPUTATION, POSTING AND TRANSFER **INSTRUCTORS** TEACHERS, AND DOCTORS) REGULATORY ACT, 2011, FOR NO GOOD GROUNDS.

#### PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 10.07.2019 AND 06.10.2019 MAY

ASIDE BEING PASSED IN UTTER SET KINDLY VIOLATION OF SUB SECTION (3) of SECTION 3 OF **PAKHTUNKHWA** (APPOINTMENT, **KHYBER** DEPUTATION, POSTING AND TRANSFER OF TEACHERS, INSTRUCTORS AND DOCTORS) REGULATORY ACT, 2011. THE RESPONDENT DEPTT: MAY FURTHER PLEASE BE DIRECTED NOT TO TRANSFER THE APPELLANT FROM GPS NO.1 GUMBAT AS THE APPELLANT BELONG TO UNION COUNCIL GUMBAT. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPOPRIATE THAT MAY ALSO BE AWARADED IN FAVOUR OF APPELLANT.

### RESPECTFULLY SHEWETH: FACTS:

- 1. That the appellant is belong to Union Council Gumbat and working on the post of PSHT (BPS-15) in GPS. No.1 Gumbat and was performing his duty with zeal and devotion whatsoever assigned to him.
- 2. That the appellant is Head Teacher of the concerned school and the department has granted conditional grant electrification and the SDEO (Male) Kohat on visited to the school of the appellant on 27.04.2019 reported that there was some injudicious and embezzlement in the utilization of grant and recommended for detail inquiry and responsibility shall be fixed upon dealing hands. (Copy of report is attached as annexure-A)
- 3. That the appellant was transferred from GPS No.1 Gumbat to GPS Khushal Garh on administrative ground vide order dated 10.06.2019 in utter violation of sub section (3) of section 3 of Khyber Pakhtunkhwa (Appointment, Deputation, Posting and Transfer of Teachers, Instructors and Doctors) Regulatory Act, 2011as the appellant belong to Union Council Gumbat, but he was transferred another union council Khushal Garh. (Copy of order dated 10.06.2019 is attached as annexure-B)
- 4. That against the order dated 10.06.2019, the appellant filed departmental appeal, which was rejected on 10.07.2019 on good

### ground. (Copies of departmental appeal and rejection order dated 10.07.2019 are attached as Annexure-C&D)

5. That the appellant has no other remedy but come this august Tribunal on the basis of following grounds amongst others.

#### **GROUNDS:**

- A) That the impugned orders dated 10.07.2019 and 10.06.2019 are against the law, facts, norms of justice, violation of sub-section (3) of section 3 of Khyber Pakhtunkhwa (Appointment, Deputation, Posting and Transfer of Teachers, Instructors and Doctors) Regulatory Act, 2011, therefore not tenable and liable to be set aside.
- B) That the appellant is belong to Union Council Gumbat and according sub section (3) of section 3 of the Khyber Pakhtunkhwa (Appointment, Deputation, Posting and Transfer of Teachers, Instructors and Doctors) Regulatory Act, 2011 it is clearly mentioned that the primary school teacher shall be transferred to other school within the union council, but despite the clear instruction in Regulatory Act 2011, the appellant was transferred to other union council and on this ground alone the impugned transfer order is liable to set aside. Copy of Regulatory Act 2011 is attached as annexure-E)
- C) That in the comments dated 26.06.2019 on the departmental appeal of the appellant, the respondent No.3 mentioned that the reason of the transfer on administrative ground of the appellant was the visit report of SDEO (M) Kohat and in this respect inquiry has also constituted in the matter, however the inquiry officer mentioned in his recommendation that no intentional embezzlement/misuse of fund was found and recommended that the case may please be filed, which shows that the appellant was punished for fault on his part. (Copies of letter dated 26.06.2019 and inquiry report are attached as Annexure-F&G)
- D) That according to posting/transfer policy, posting/transfer orders of all the officers up to BS-19 except the Heads of the Attached Departments irrespective of the grade will be notified by the concerned Administrative Departments with the prior approval of the Competent Authority obtained on the Summary, but in the case of the appellant, no prior approval of Summary for transfer was obtained,

which is violation of posting/transfer policy. (Copy of posting transfer policy is attached as Annexure-H)

- E) That the impugned transfer order was passed on administrative ground but as per different Courts/Tribunals judgments, no one can be transfer on administrative ground.
- F) That in passing of impugned transfer order, no exigencies or public interest was shown by the respondent, but just to adjust blue eyed person on the post of appellant.
- G) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore most humbly prayed that the appeal of the appellant may kindly be accepted as prayed for.

**APPELLANT** 

Muhammad Hanif

THROUGH:

(TAIMUR ALI KHAN) ADVOCATE HIGH COURT &

(ASAD MAHMOOD) ADVOCATE HIGH COURT

### BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL	NO	/2019

Muhammad Hanif

V/S

**Education Deptt:** 

APPLICATION FOR SUSPENDING THE OPERATION OF ORDER DATED 10.06.2019 TILL THE DISPOSAL OF MAIN SERVICE APPEAL.

### **RESPECTFULLY SHEWETH:**

- 1) That the appellant has filed an appeal against the order 10.06.2019, whereby the appellant was transferred from GPS No.1 Gumbat to GPS Khushal Garh in utter violation of sub section (3) of section 3 of Khyber Pakhtunkhwa (Appointment, Deputation, Posting and transfer of Teachers, Instructors and Doctors) Regulatory Act, 2011, along with this application in this august Service Tribunal in which no date is fixed so for.
- 2) That the impugned transfer order was passed on administrative ground but as per different Courts/Tribunals judgments, no one can be transfer on administrative ground.
- 3) That the appellant has a good prima facie case and all the three ingredients are in favour of the appellant.
- 4) That the grounds of main appeal may also be considered as integral part of this application.

It is therefore most humbly prayed that the operation of the order dated 10.06.2019 may kindly be suspended till the decision of main appeal.

THROUGH:

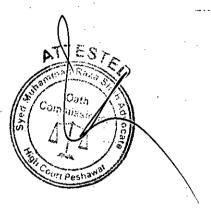
(TAIMUŘ ÁLI KHAN) ADVOCATE HIGH COURT

APPELIA

### **AFFIDAVIT**

It is solemnly affirmed that the contents of the application is true and correct to best of my knowledge and belief and nothing has been concealed from this Honourable Service Tribunal.

**DEPONENT** 



B (9)



### OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) KOHAT

#### TRANSFER ORDER

Consequent upon the approval of the competent authority, the following PSHT are hereby transferred on their own pay and grade in the interest of public service with immediate effect.

Γ	S#	Name of Teacher	From	То	Remarks
+	1	Muhammad Hanif, PSHT	GPS No.1 Guilloat	OPS Klitishal Gath	On administrative
					ground against VSNo.2
	2	Muhammad Afzal,PSHT	GPS Khushal Garh	GPS No.1 Gumbat	VSNo.1

#### DISTRICT EDUCATION OFFICER

Endst. No. 4660-64

dated / a / 6 /2019

Copy to the:-

1.Director E&SE Khyber Pakhtunkhwa Peshawar

2.District Accounts Officer Kohat

3.DMO IMU Kohat

4.SDEO(M) Kohat

5. Head Teacher Concerned

: DISTRICT DUCATION OFFICER (MALE) KOHAZ

íέ.

2.504

 $\frac{1}{2} \left( \frac{1}{2} \left( \frac{1}{2}$ 

Transport to the second of the

15.0021

FIRE CALLS OF THE SHOPE

or the second second

·\_-

A DE ANTONIO DE LA COMPANSA DEL COMPANSA DE LA COMPANSA DEL COMPANSA DE LA COMPAN

.

. du is المان من مراكع المان در رييس شره فلر 2 6/5 (U) 100/1/2/20032 000 000/1/20 سی نیره میر دوران مروسی کا با روافزستی نز المرام أمان روا مع المعالي المعالي المعالي المعالية المعا نازیم میرا بو اسی پر فانس کر فانس کر در فانس کر در در یا موک منران اور عنه افلات یک جوب شون کر اور عنه افلات یک جوب شون کو ناکر ره ساه e in the colon of the contraction in the 191 ( red com in 2 - 191) And B ( 19) And In الرا فراس ما ور اور بر شرب ما وقع ما ما الم Just is by corps so post in every

ATTO



# DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION KHYBER PAKHTUNKHWA, PESHAWAR

No.\_\_\_\_\_/F.No. Appeal PST (M) NTS
Dated: \_\_\_\_/2019.

To

The District Education Officer (Male) Kohat.

Subject: - **DEPARTMENTAL APPEAL** 

I am directed to refer to your letter No. 5283 dated 26/6/2019, on the subject cited above and to ask you that the case/appeal in respect of Muhammad Hanif PSHT GPS No. 1 Gumbat District Kohat has been examined/analyzed by this office. Hence inform the appellant concerned that his appeal has been rejected by the Appellate Authority.

Assistant Director Estab (Male)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

Endst No. 2343

Copy of the above is forwarded to: -

- 1. PA to Director E&SE local Office.
- 2. Muhammad Hanif PSHT GPS No. 1 Gumbat District Kohat.
- 3. Master File.

Assistant Director Estab (Male)
Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

523

- 3. Removal of difficulties.——If any difficult arises, in giving effect to the provisions of this Act, the Provincial Government may make such orders as it may deem just and equitable.
- 4. Repeal.--- The Khyber Pakhtunkhwa Cessation of Payment of Arrears on Advance Increments on Higher Educational Qualification Ordinance, 2012 (Khyber Pakhtunkhwa Ordinance NO. I of 2012), is hereby repealed.

# Khyber Pakhtunkhwa (Appointment, Deputation, Posting and Transfer of Teachers, Lecturers, Instructors and Doctors) Regulatory Act, 2011

(Khyber Pakhtunkhwa ACT NO. XII OF 2011)

AN ACT to regulate by law appointments, postings and transfers of teachers serving in primary, middle, secondary and higher secondary schools, lecturers in colleges and instructors in technical institutions and doctors in health facilities.

10th May 2011

**Preamble.--**-WHEREAS it is expedient to regulate by law appointments, postings and transfers at local level, of teachers serving in primary, middle, secondary and higher secondary schools, lecturers in colleges and instructors in technical institutions and doctors in health facilities and to ensure the availability of teachers in schools, lecturers in colleges and instructors in technical institutions and the doctors in health facilities, and to regulate deputation of doctors abroad, and to provide for matters connected therewith or ancillary thereto;

It is hereby enacted as follows:

- 1. Short title, application and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa (Appointment, Deputation, Posting and Transfer of Teachers, Lecturers, Instructors and Doctors) Regulatory Act, 2011.
- (2) It shall apply to teachers serving in primary, middle, secondary and higher secondary schools, lecturers in colleges as well as commerce colleges and instructors serving in technical institutions and doctors serving in the health facilities in the Province of the Khyber Pakhtunkhwa.
  - (3) It shall come into force at once.
- **2. Definitions.---**(1) In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them that is to say,--
  - (a) "Commission" means the Khyber Pakhtunkhwa Public Service Commission;
  - (aa) "college" means a degree college;



## (13)

### 524 <u>Teachers, Lecturers, Instructors and Doctors) Regulatory Act</u>, 2011

- (b) "doctor" means a doctor serving in the health facility;
- (c) "Government" means the Government of the Khyber Pakhtunkhwa;
- (d) "health facilities" mean all health facilities established and managed by Government to provide medical facilities to general public;
- (e) "lecturer" and "instructor" respectively means a lecturer or an instructor serving in a Technical Institution as well as in a college, as the case may be;
- (f) "prescribed" means prescribed by rules made under this Act;
- (g) "rules" mean the rules made under this Act;
- (h) "school" means school in the public sector including primary, middle, secondary school, higher secondary school or an institution of equivalent level imparting education through any system or medium of instruction in the public sector;
- (i) "teacher" means a teacher of primary, middle, secondary or higher secondary school; and
- "technical institution" means and includes a Commerce College or Government College of Management Sciences or Technical Institute or Technical and Vocational Training Center or Skill Development Center in the public sector imparting technical education to students leading to the award of a degree or a diploma or a certificate.
- (2) Words and phrases used in this Act, but not defined, shall have the same meanings as respectively assigned to them under the relevant federal law or provincial law or any other statutory order or rules for the time being in force.
- 3. Appointment, posting and transfer of primary school teachers.---(1) The vacancy of primary school teacher shall be filled in from the candidates belonging to the Union Council of their permanent residence mentioned in their Computerized National Identity Card and domicile, on merit and if no eligible candidate in that Union Council is available where the school is situate, such appointment shall be made on merit from amongst eligible candidates belonging to the adjacent Union Councils:

Provided that on availability of a vacancy, a primary school teacher, appointed from adjacent Union Council, as referred to in this sub-section, shall be transferred against a vacant post in a school of the Union Council of his residence within a period of fifteen days.

ATACE

### Teachers, Lecturers, Instructors and Doctors) Regulatory Act, 2011

- (2) Upon marriage, the primary school teacher on request may be transferred to the school in the Union Council, where his spouse, ordinarily resides, subject to the availability of vacancy.
- (3) The primary school teacher shall be transferred to other school within the Union Council on completion of tenure as may be prescribed or before completion of tenure, subject to the policy of rationalization for maintaining certain students teachers ratio, if any.
- (4) Government shall, within a period not exceeding one year of the commencement of this Act, make arrangement for posting of all the primary school teachers appointed prior to coming into force of this Act, to the schools of their respective Unión Councils or adjacent Union Councils, as the case may be.
- 4. Appointment of doctors, lecturers, instructors, subject specialists and teachers on adhoc basis.---(1) Government may, through the competent authorities make adhoc appointment on merit against the vacant posts of doctors, lecturers, instructors, subject specialists and teachers, falling within the purview of Commission, in a district concerned from the domicile holders of that district for a period of one year or till the arrival of recommendees of Commission, whichever is earlier after fulfilling the pre-requisites of giving wide publicity in the press. On assumption of charge of post by recommendee of the Commission, the services of such ad hoc appointee shall stand automatically terminated:

Provided that if no suitable and eligible candidate is available in the district concerned for appointment, then the candidates belonging to the neighbouring districts shall be considered for appointment in the order of their merit.

- (2) Save as the appointment made under proviso of this section, "ad hoc appointee" shall serve in the district of his domicile.
- (3) The post of a doctor, lecturer, instructor, subject specialist or teacher who proceeds on training or long leave may be treated as vacant post for the purpose of contract or contingent appointment till the return of such employee from training or long leave and assumption of charge of the post:

Provided that the period of such training or long leave shall not be less than one year and no appointment on contract or contingent shall be made on the post which may fall vacant for a period less than one year.

- 5. Initial posting. --- (1) The doctors, lecturers, instructors subject specialist or teachers, upon their appointment shall be first posted in the periphery of the zone against whose quota they have been recruited, and they shall not be transferred for a period of at least three years.
- (2) Upon expiry of the tenure as referred to in sub-section (1), transfer shall be made only upon the availability of substitute.
- 6. **Deputation of Doctors.---**(1) Government may allow deputation abroad for all categories of doctors only once in their entire service, for a period not exceeding three years.

hu gi

### 1526 Teachers, Lecturers, Instructors and Doctors) Regulatory Act, 2011



(2) Deputation to "Foreign Service" within Pakistan shall be permissible only in respect of medical officers for period not exceeding three years:

Provided that no further extension, on expiry of agreed tenure shall be given to the doctors who are already on deputation abroad or within Pakistan.

- 7. Postgraduate Medical Education.---(1) The Health Department, on the basis of objective need assessment and analysis, shall determine the Intake number of Trainee Medical Officers (TMOs) in Postgraduate Medical Institute (PGMI) and Junior Registrars in Tertiary Care Hospitals every year. This stipulated number shall not exceed in any case.
- (2) Any doctor selected or permitted for postgraduate medical training shall be treated on leave without pay and may be entitled only for stipend fixed by Government from time to time for such training.
- (3) A doctor selected or permitted for postgraduate medical training shall provide surety bond prescribed by Government ensuring that upon completion of his studies for which he was initially selected, shall compulsorily serve for three years in the district of his domicile and in case of non-availability of a post in the district of domicile, he shall serve for three years in the rural area.
- (4) For the purpose of sub-section (3), the doctor shall also provide guarantee of two government officers.
- (5) In case of violation of sub-section (3), Government shall serve one month notice upon the doctor for resumption of duty, failing which the amount shall be recovered from him or from the guarantor, as the case may be.
- 8. Provisions relating to doctors apply to lecturers and instructors. --- The provisions relating to doctors in section 7 of this Act shall mutatis mutandis apply to lecturers and instructors.
- **9. Act to over-ride other laws.---**The provisions of this Act shall have effect notwithstanding any thing contained in any other law for the time being in force.
- Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973), the Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986 and the Khyber Pakhtunkhwa Service Tribunal Act, 1974 (Khyber Pakhtunkhwa Act No. I of 1974), no order made or proceedings undertaken under this Act, or the rules made there under or any officer authorized by it shall be called into question in any Court, and no injunction shall be granted by any Court in respect of any decision made, or proceedings taken in pursuance or by any power conferred by or under this Act or the rules.
- 11. Removal of difficulties.---Government may, by order, provide for the removal of any difficulty which may arise in giving effect to the provisions of this Act.



### West Pakistan Essential Services (Maintenance) Act, 1958

Power to make rules.---Government may make rules for carrying out the purposes of this Act.

### West Pakistan Essential Services (Maintenance) Act, 1958

<sup>1</sup>West Pakistan Act, XXXIV of 1958

[24th April, 1958.]

An Act to provide for the maintenance of certain essential services

Preamble.--- Whereas it is expedient to provide for the maintenance of certain essential services in West Pakistan:

It is hereby enacted as follows:-

- Short title extent and commencement.---(1) This Act may be called the West Pakistan Essential Services (Maintenance) Act, 1958.
- It extends to the whole of the <sup>3</sup>[Khyber Pakhtunkhwa], except the tribal Areas
  - It shall come into force at once.  $\cdot$  (3)
- Definitions.---In this Act, unless there is anything repugnant in the subject or context--
  - "employment" means any service for which remuneration is received;
  - "essential service" means a service to the employment of which (ii) this Act, applies;
  - "Government" means the Government of 4[Khyber Pakhtunkhwa]. (iii)
- Employment to which this Act applies .--- [(1) This Act shall apply to all employment under the Government or any agency set up by it or a local authority or any service relating to transport or civil defence.

Subs, by W. P. Ord. VII of 1964

3. In section 1, it; sub-section (2), for the words "Province of West Pakistan", the words "North-West Frontier Province", subs, by N. W. F. P. Adpt. of Laws Order, 1975

In section 2, in clause (iii) for the words "West Pakistan", the words "North-West Frontier Province", subs ibid

Section 1. re-numbered as subsection (1), by Khyber Pakhtunkhwa Act No. VI of 1974, s.



For Statement of Objects and Reasons see Gazette of West Pakistan, 1957, Extraordinary, p. 130; and for Proceedings in Assembly, tee West Pakistan Assembly Debates, Vol. III, pp 1327 to 1336



### E OF THE DISTRICT EDUCATION OFFICER (MALE) KOHAT

No. 52 8 3dated 26 6 /2009

To.

The Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.

APPEAL Subject: -

I am to refer to your office letter No:2073/F.No.170/ PST (M) General Memo:dated 12-06-2019 on the subject noted above and to state that the transfer order of Mr. Muhammad Hanif PSHT GPS No.1 Gumbat is not on political basis, but he was transferred on Administrative grounds in the light of SDEO (M) Kohat visit to his school (visit report attached).

It is further stated that an enquiry has already constituted against the matter (Copy attached) action will taken as and when the recommendation of enquiry officer received. So, it is therefore requested that appeal in the hand of appellant may be graciously dismissed please.

1. SDEO (M) Kohat with ref: to his letter No.39 dated 26-06-2019

No: 1897

Dated: 8.7-) 879

Title of enquiry:

Embezzlement /Misuse of conditional grant in GPS no.1

Gumbat Kohat.

Authority for nomination of enquiry officer:

District Education Officer (M) Kohat.

Enquiry officer:

Mr. Miuhammad Nawaz Principal GHSS Billitang Kohat.

Venue of enquiry:

GPS No.1 Gumbat Kohat.

Date of enquiry:

01/07/2019

Date of submission of enquiry:

08/07/2019

### **Preamble**

Mr. Muhammad Ilyas the SDEO (M) Kohat visited GPS No.1 Gumbat Kohat on dated 27-04-2019, and reported to the DEO (M) Kohat about the embezzlement /misuse of conditional grant Rs.6,63000/- allocated for boundary wall and Rs. 1,10000/- allocated for electrification, by Mr. Muhammad Ijaz the then Head Teacher and Mr. Muhammad Hanif respectively. Hence the honorable competent authority DEO (M) Kohat nominated the undersigned as enquiry officer to thoroughly look into the matter and after finding the facts and figures submit the report for further necessary action.

(Annexure "A")

### **Proceedings**

The undersigned informed both the teachers telephonically, to ensure their presence in school along with complete record. A separate questionnaire was served to both the teachers regarding the use of the allocated conditional grant as (Annexure "B&C")

### <u>Findings</u>

The undersigned studied the statements of both the teachers' with profound care and observed the work done through the allocated fund and found that:

- Muhammad Ijaz stated that he has constructed 635 square feet boundary wall and 200 square feet foundation of the boundary wall and fixed strong grill on top of the boundary wall.
- 2. 727 square feet vallation on the roof of the ground floor has been constructed. The elders of the neighboring houses had demanded the school administration

Scanned by CamScanner



and school PTC for this, as their houses were open. This matter was then taken to the ASDEO (M) and P&D, by PTC and some local elders. The P&D directed to solve this issue with the consultation of PTC.

So, after the allocation of conditional grant the vallation was constructed, which provided a space for taking tests, Bazm-e-Adab and other co-curricular activities because the school has no other uncovered area or space for such activities.

- 3. All this fund has been consumed/used in light of PTC resolution through its nominated committee. Annexible: D
- 4. The P&D office, after completion of work issued the work completion certificate. (Annexure "D")
- 5. Separate pictures, resolution of PTC and receipts of the complete expenditure have been provided. (Annexure "E&F") F & & 1
- 6. The written statement of Mr. Muhammad Hanif reveals that RS.1,10000/- was provided for electrification. He purchased one solar room cooler, one solar plate, and ten ceiling fans and done electrification work in three class room, in this amount of Rs. 1,10000/- (Annexure "6")
- 7. Receipts and PTC Qaradads provided. (Annexure "A") 1
- 8. Mr. Muhammad Hanif rejected the charge of not taking class and provided the work distribution proforms of teachers, which reveals that he is incharge of class "Adna".(Annexure "I")

### Conclusion/Recommendation

From the afore mentioned findings and seen ground realities it is derived that

a. The allocated fund for Boundary Wall and electrification has been consumed through PTC and its nominated three members committee in a proper way. The receipts of all the expenditure are there. The work done can be seen and checked on ground. No intentional embezzlement/misuse of fund was found. So it is recommended that the Case may please be filed.

Enquiry Officer

PRINCIPAL

Mr. Muhammad Nawaz KOHAT

Principal GHSS Billitang Kohat.

Scanned by CamScanner





### GOVERNMENT OF KHYBER PAKHTUNKHWA ESTABLISHMENT DEPARTMENT

(REGULATION WING)

### OSTING/TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT

- All the posting/transfers shall be strictly in public interest and shall not be i) abused/misused to victimize the Government servants
- All Government servants are prohibited to exert political, Administrative ii) or any other pressures upon the posting/transfer authorities for seeking posing/transfers of their choice and against the public interest.
- All contract Government employees appointed against specific posts, can iii) not be posted against any other post.
- Existing tenure of posting/transfer of three (03) years for settled areas and (See 206) iv) two (02) years for unattractive/hard areas shall be reduced to two (02) as retained years for settled areas, 011/2 years for unattractive areas and one year for 2 years ten une Schain est pland area Nide P-06 for un-altractive/Road area

V)

(vi)

<sup>3</sup> While making posting/transfers of officers/officials up to BS-17 from selfled areas to FATA and vice versa approval of the Chief Secretary. Khyber PakhtunKhwa needs to be obtained. Save Tehsildars/Naib Tehsildars within a division in respect of whom the concerned Commissioner will exercise the same power. Whereas, in case of

posting/transfer of officers in BS-18 and above, from settled areas to FATA and vice versa, specific approval of the Governor, Khyber PakhtunKhwa shall be obtained."

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

- vi (a)1 All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for atleast eighteen months in each grade. This should start from senior most scales/grades downwards in each scale/grade of each cadre.
- Officers may be posted on executive/administrative posts in the Districts vii) of their domicile except District Coordination Officers (D.C.Os) and DPOs/Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where the Police Station (Thaana) of his area/residence is situated.

Circular letter No. SOR-VI/E&AD/1-4/2008/Vol-VII dated, the, 11th September, Para-I(v) regarding months of March and July for posting/transfer and authorities for relaxation of ban deleted vide letter No: SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-5-2008. Consequently authorities competent under the Khyber PakhtunKhwa Government Rales of Business, 1985. District Government Rules of Business 2001. Posting/Transfer Policy and other rules for the time being in force, allowed to make Fosting/Transfer subject to observance of the

Para-VI added vide circular letter No. SOR-VI/E&AD/1-4/2010/Vol-VIII dated 20th March, 2010. Sub para-VI (a) added vide circular letter No. SOR-VI/E&AD/1-4/2008 dated 22<sup>nd</sup> October, 2008.

- 2(2/)
- viii) No posting/transfers of the officer's/officials on detailment basis shall be made.
- Regarding the posting of husband/wife, both in Provincial services, efforts where possible would be made to post such persons at one station subject to the public interest.
- All the posting/transferring authorities may facilitate the posting/transfer of the unmarried female government Servants at the station of the residence of their parents:
- Officers/officials except DCOs and DPOs/SPs who are due to retire within one year may be posted on their option on posts in the Districts of their domicile and be allowed to serve there till the retirement

<sup>1</sup>DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales;

xii) In terms of Rule-17(1) and (2) read with Schedule-III of the Khyber PakhtunKhwa Government Rules of Business 1985, transfer of officers shown in column 1 of the following table shall be made by the authorities shown against each officer in column2 thereof:

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

Added vide Urdu circular letter No: SOR-VI (E&AD)/1-4/2005, dated 9-9-2005.



b) To and from an Attached Department	Secretary of the Department in
c)Within the Secretariat from one Department to another	consultation with Head of Attached Department concerned. Secretary (Establishment)

- while considering posting/transfer proposals all the concerned authorities shall keep in mind the following:
  - a) To ensure the posting of proper persons on proper posts, the Performance Evaluation Report/annual confidential reports, past and present record of service, performance on post held presently and in the past and general reputation with focus on the integrity of the concerned officers/officials be considered.
  - b) Tenure on present post shall also be taken into consideration and the posting/transfers shall be in the best public interest.
  - Government servants including District Govt. employees feeling aggrieved due to the orders of posting/transfer authorities may seek remedy from the next higher authority / the appointing authority as the case may be through an appeal to be submitted within seven days of the receipt of such orders. Such appeal shall be disposed of within fifteen days. The option of appeal against posting/ transfer orders could be exercised only in the following cases.
    - i) Pre-mature posing/transfer or posting transfer in violation of the provisions of this policy.
    - ii) Serious and grave personal (humanitarian) grounds.
- 2. To streamline the postings/transfers in the District Government and to remove any irritant/confusions in this regard the provision of Rule 25 of the North West Frontier Province District Government Rules of Business 2001 read with schedule IV thereof is referred. As per schedule-IV the posting/transferring authorities for the officers/officials-shown against each are as under:-

S. No.	Officers	Authority
1.	Posting of District Coordination Officer and Executive District Officer in a District.	Provincial Government.
2.	Posting of District Police Officer.	Provincial Government
· 3. ·	Other Officers in BPS-17 and above posted in the District.	Provincial Government
4.	Official in BPS-16 and below	Executive District Officer in consultation with District Coordination Officer.

- 3. As per Rule 25(2) of the Rules mentioned above the District Coordination Department shall consult the Government if it is proposed to:
  - a) Transfer the holder of a tenure post before the completion of his tenure or extend the period of his tenure.
  - b) Require an officer to hold charge of more than one post for a period exceeding two months.
- 4. I am further directed to request that the above noted policy may be strictly observed /implemented.

All concerned are requested to ensure that tenures of the concerned officers/officials are invariably mentioned in summaries submitted to the Competent Authorities for Posting/Transfer.

{Authority: Latter No: SOR-VI/E&AD/1-4/2003 dated 24-6-2003.

It has been decided by the Provincial Government that posting/transfer orders of all the officers up to BS-19 except Heads of Attached Departments irrespective of grades will be notified by the concerned Administrative Departments with prior approval of the Competent Authority obtained on the Summary. The Notifications/orders should be issued as per specimen given below for guidance.

All posting/transfer orders of BS-20 and above and Heads of Attached Departments (HAD) shall be issued by the Establishment Department and the Administrative Departments shall send approved Summaries to E&A Department for issuance of Notifications.

### SPECIMEN NOTIFICATION.

### GOVERNMENT OF KHYBER PAKHTUNKHWA

NAME OF ADMINISTRATIVE DEPARTMENT

	Dated Peshawar,	
NOTIFIC:	ATION	
VO.	The Competent Authority is pleased to order the transfer of Mr.  Department and to post him as  Dic service, with immediate effect.	inthe

### CHIEF SECREARY GOVERMENT OF KHYBER PAKHUNKHWA

Endst. No. and date even. Copy forwarded

1.

2.

3.

4.

(NAME)
SECTION OFFICER
Administrative Department

{Authority: Letter No. SO (E-I) E&AD/9-12/2006 dated 22-12-2006}.

The competent authority has been pleased to direct that Para 1(v) of the Posting/Transfer Policy contained in this Department letter No:SOR-I (E&AD) 1-1/85 Vol-II, dated 15-2-2003 shall stand deleted, with immediate effect, consequently allowing the authorities, competent under the Khyber PakhtunKhwa Government Rules of Business, 1985 and the District Government Rules of Business, 2001 or any other rules for the time being in force, to make posting/transfers of Government servants, any time during the year, in genuinely deserving and necessary cases, in public interest,

(23)



subject to strict observance of all other provisions of posting/transfer policy contained and notified vide circular letter under reference. Hence there will be no ban on posting/transfer of Government Servants in any part of the year while carrying out postings/transfers of Government Servants.

The authorities concerned will ensure that no injustice whatsoever is caused to any civil servant, public work is not suffered and service delivery is improved.

I am therefore directed to request that the provisions of posting/transfer policy, as amended to the extent above, may kindly be followed in letter and sprit in future so as to keep good governance standard in this regard.

[Authority: Letter No: SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-6-2008.

According to the policy of the provincial Government, maximum tenure on a post is three years. Contrary to the Policy, Store Keepers, Cashiers, Accountants and other ministerial staff remains posted in their particular field for long time, which may result in misuse of this position, due to which not only public exchequer may sustain loss but general public also suffers. The Provincial Government has taken serious notice of this situation & decided that all Administrative Secretaries and DCOs may submit a certificate within one month to the effect that above mentioned officials, having completed three years on their posts, have been adjusted on posts other than those they held previously.

{Authority: Urdu circular No: SOR-VI (E&AD)/05 dated 28th Oct. 2005.

The Chief Minister Khyber PakhtunKhwa has directed that:-

i) Submission of summary would not be required in case of mutual transfer.

ii) Posting/transfer shall be made according to the policy;

Government Servants shall avoid direct submission of applications to the Chief Minister;

iv) In genuinely deserving case, they should approach the Administrative Secretaries who could process the case according to policy;

v) In case of direct submission of application to the Chief Minister Secretariat for Posting/ Transfer, the concerned govt servants shall be proceeded against under the prevalent rules and regulations.

{Authority: Urdu circular No; SOR-VI/E&AD/1-4/2003, dated 8-6-2004 & Urdu Letter No SOR-VI/E&AD/Misc: /2005, dated 3-1-2006.}

It has been decided with the approval of the competent authority that:-

i) Mutual transfer would be allowed if both the concerned employees agree; except the Government Servants holding Administrative posts;

ii) Khyber PakhtunKhwa Government Rules of Business 1985 shall be observed while issuing posting/transfer orders.

{Authority: - Urdu circular letter No: SOR (E&AD)/1-4/2005, dated 9-9-2005}.

The competent authority has decide that in order to maintain discipline, enhance performance of the departments and ensure optimum service delivery to the masses, the approved /prevalent policy of the posting/transfer shall be strictly followed. Government Servants violating the policy and the Khyber PakhtunKhwa Govt Servants (Conduct) Rules 1987 shall be proceeded against under the Khyber PakhtunKhwa Removal from Service (Special Powers) Ordinance 2000. As required under the Khyber PakhtunKhwa Govt Rules of Business 1985, the Administrative Secretaries shall ensure compliance with the policy and defaulting offices/officials be taken to task & entries to this effect



shall be made in their PERs/ACRs. In case subordinate officers are working on sites or proceeding for the purpose of inspection, they shall submit inspection Report to their Administrative Secretaries. Administrative Secretaries shall ensure submission of such reports.

{Authority: - Urdu circular No: SOR-VI (E&AD)/1-4/06, dated, 29-6-2007}.

\*\*\*\*\*\*\*\*\*\*\* <sup>6</sup>In continuation of this Department circular letter No.SOR-VI/E&AD/1-4/2008/Vol-VII dated 11th September, 2009, I am directed to refer to the subject and to say that the Provincial Cabinet in its meeting held on 30th March, 2010 inter-alia approved the following for the purpose of Posting/Transfer Policy:-

### Unattractive/Hard Areas

- 1. The distinction between unattractive/hard areas should be done away with and both should be labeled as Unattractive areas.
- 2. Existing list of FATA areas be retained.
- 3. The following areas were recommended/approved to constitute unattractive areas in NWFP:-

a. Kohistan District.

b. Tank District.

c.Chitral District.

d.Batgram District.

e. Shangla District.~

Hungu District.

g.PATA areas of Manschra (Kala Dhaka)

1) Tenur for Settled area 03 years 2) unatthestive area 13 02 v (P-I)

### Tenure of posting.

- The erstwhile normal tenure of 2 years be retained.
- ii. Existing tenure for unattractive areas be retained. However, in case of married civil servants, transfer should be made just at the beginning of school session and tenure should be one year instead of 1.5 year, so that academic disruptions are avoided.
- iii. At the time of entry in service, all civil servants be asked to give 4 options from unattractive areas.
- iv. After a stint of service in unattractive area, employees may be offered option to serve in district of choice.

### <sup>7</sup>PLACEMENT POLICY.

In order to utilize the expertise of the officers who have received foreign training in various fields, the provincial Government has decided to adopt the Placement Policy, approved by the Prime Minister of Pakistan, and make it a part of its Posting/Transfer Policy. Placement Policy is as follows:-

- All placements would be made on the basis of merit and keeping in view i) the needs of the organization.
- ii) The first priority in placement must go the parent organization of the participant from where the individual had applied. This will be in

No. SOR-VI/E&AD/1-4/ 2010/Vol-VIII Dated Peshawar, the, 10th April, 2010 Placement Policy has been made part of the posting/transfer policy vide Urdu circular



consonance with the concept of establishing the "Need" for the department and fulfilling the need through "capacity building for the organization.

- iii) In order to follow the "bottom up approach" for Devolution, the priority within departments must go to the Districts, the Provinces and than the Federal Government..
- iv) The second priority in placement should go to up-grading the existing training Institution within the country. The knowledge gained by the officers, will be of immense value to bring about a qualitative change in the training institutions. The following proposals are made in this regard:
  - a) Permanent posting of an officer to the training institutions for 2-3 years;
  - b) Temporary attachment with the training intuitions for 3 to 6 months for some research project on helping in developing case studies;
  - c) Earmarked as a visiting faculty member for specific subject.
- v) Individuals posted to their parent organizations will also organize training for their subordinates within the department, in order to transfer the knowledge and bring about a qualitative change internally;
- vi) \( \sum \) The Normal tenure of posting as already provided in the policy would be ensured;
- vii) No participant should be allowed to be posted on deputation to multinational donor agencies for at least 5 years;
- viii) No participants will decline/represent against his/her posting.

A CAN

## سهوس بر بروش

مقدم دعوى

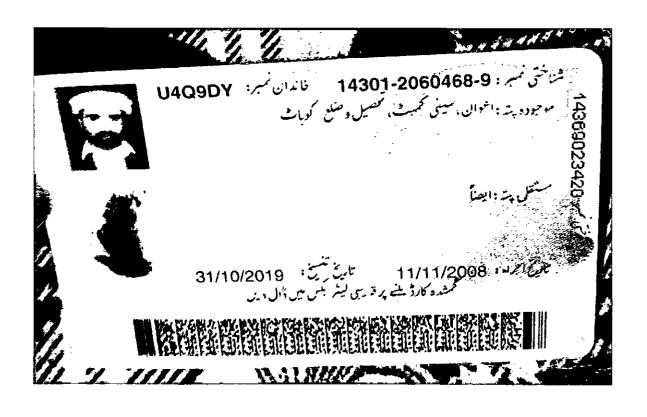
7.

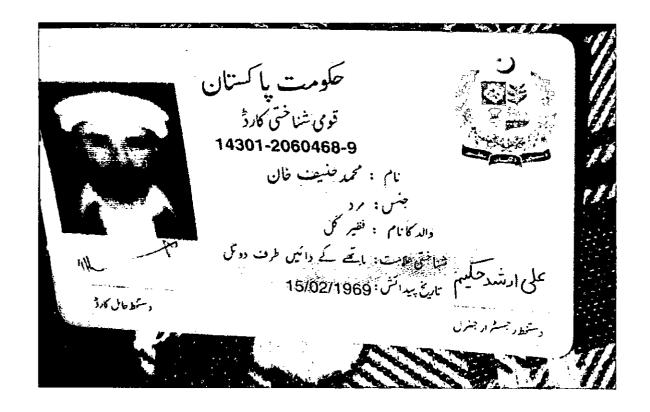
### باعث تحريراً نكه

مقدمه مندرجه عنوان بالاميں اپن طرف سے داسطے بیروی وجواب دہی وکل کاروائی متعلقه آن مقام لیشامر کیلے جمور کملی فان اور المراکم لیک مقرر کرے اقرار کیا جاتا ہے۔ کہصا حب موصوف کومقدمہ کی کل کاروائی کا کامل اختیار ہوگا مجیز وکیل صاحب کوراضی نامه کرنے وتقر ر ثالث و فیصله پرحلف دیئے جواب دہی اورا قبال دعویٰ اور بصورت ڈگری کرنے اجراءاور وصولی چیک وروپیارعرضی دعوی اور درخواست ہرشم کی تصدیق زرایں پردستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یاڈ گری کیطرفہ یا اپل کی برامد گ اورمنسوخی نیز دائر کرنے اپیل نگرانی ونظر ثانی و پیروی کرنے کا مختار ہوگا۔ازبصورت ضرورت مقدمه مذکور کے کل یا جزوی کاروائی کے واسطے اوروکیل یا مختار قانونی کواییے ہمراہ یا اپنے بجائے تقرر کا ختیار ہوگا۔اورصاحب مقرر شدہ کوبھی وہی جملہ مذکورہ بااختیارات حاصل ہوں گے اوراس کا ساختہ پر داختہ منظور وقبول ہوگا دوران مقدمہ میں جوخرچہ ہرجانہ التوائے مقدمہ کے سبب سے وہوگا کوئی تاریخ پیشی مقام دورہ پر ہو یا حدسے باہر ہوتو وکیل صاحب پابند ہوں گے۔ کہ پیروی ندکورکریں ۔للہٰ داوکالت نامہ کھھدیا کہ سندر ہے۔

المرقوم

کے لئے منظور ہے۔





to the laboration GARAGE . Man tale Ist Charle AL NIPASIGNED

ومراه مراح والمعالم الموال مالا المالية الله في ورنستون و مرويه من منبعة كا وموثر wind in the fire wind in a mind ميدان د نون سان ماند سر - در المعان

# BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKWA, PESHAWA

### **SERVICE APPEAL NO: 911/2019**

## Versus

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

### INDEX

S#	Description of the Documents	Annex	Pages
1	Para wise comments	٠.	1-2
2	Affidavit		3
		•	

Dated 30.07.2019

Respondent No:1 to 3

DISTRICT EDULATION OFFICER (MALE) KOHAT

### <u>BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL</u> <u>PESHAWARSERVICE APPEAL NO: 911/2019</u>

## **VERSUS**

- 1. Govt of Khyber Pakhtunkhwa Through Secretary Elementary & Secondary Education Civil Secretariat, Peshawar
- 2. Director Elementary & Secondary Education Peshawar

# Parawise Comments on behalf of respondent no: 1, 2 & 3 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 Tribunal 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.
- 6. That the instant appeal is badly barred by time.

### Respectfully sheweth

### Facts

- 1. Incorrect the appellant has been performing his duty with indifferent attitude from the day one as PSHT BPS-15.
- 2. Admitted to the extend that SDEO (M) Tehsil Kohat being a immediate boss has a sole domain to visit and supervise the schools falls under his jurisdiction what so ever he observed in the school, invariably communicated to high ups for corrective measure in good faith and to erect discipline in the intrest of public service and the competent authority is duty bound to up held his recommendations.
- 3. Incorrect, this para is based on wrong assumption of relevant section 3 of para 3 of Khyber Pakhtunkhwa Regulatory act 2011 in which it is averred that merely PST BPS-12 (Primary School Teacher) specific to be adjusted and retained in their own union council from which they healing from. The appellant is working in the capacity of PSHT BPS-15 (Primary School Head Teacher) and his adjustment could made across the District the instant impugned transfer order is quite inevitable as his immediate boss recommended, and in the intrest of public service. Further the appellant already completed his normal Tenure.
- 4. Admitted to the extend that the impugned transfer order have based on ground reality with administrative point of view to maintain discipline therefore appeal of the appellant could not entertained by appellate authority.
- 5. The respondent department can not have any malafide against any one.

#### **GROUNDS**

A. Incorrect, the appellant has been dealt strictly in accordance with law and policy

- C. Incorrect the inquiry has been constituted to probe into alleged intentional embezzlement/misuse of fund utilized under object "Conditional grant" but the appellant has been transferred due to his lethargic attitude toward his official duty as he suppose to be teach the fifth class being a senior most but instead he is teaching Adna Class which signify that he is shirking his paramount responsibility to the shoulder of junior teachers.
- D. Incorrect, the para based on misread/non read the District Education Officer without the shadow of any doubt is a competent authority/appointing authority for the employee working in BPS-01 to BPS-15 and there is a no need to obtain prior approval in the instant transfer order from appellant authority.
- E. Incorrect, the circumstance exists under which the impugned transfer order has been passed on.
- F. Incorrect, the impugned transfer order was issued in the best intrest of student as their precious time was wasting by appellant. Moreover his predecessor also belongs to Union council Gumbat and have right to be serve in his own union council.
- G. Some other gounds would adduce at the time of argument which is not specifically mentioned here, with the permission of this Hon'able tribunal.

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

District Educa

(Male) Kohat Respondent No:

Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar

Respondent No: 2

Secretary

Elementary & Secondary Education Deptt Govt of Khyber Pakhtunkhwa Peshawar

Respondent No: 1

# BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKWA, PESHAWA

## **SERVICE APPEAL NO: 911/2019**

Muhammad Hanif PSHT, GPS Khushal Grah Kohat ...... Appellant

# **VERSUS**

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

# **Affidavit**

I, District Education Officer (Male) Kohat do hereby solemnly affirm and declare on oath that the contends 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 30.07.2019

بعدالت سرورة و سول المركوالوائ كيسا مر

Respondent No.4: 15.2019

Lespondent No.4: 15.2019

Lespondent No.4: 15.2019

Lespondent No.4: 15.2019 Service Appeal No.411/2019 باعث تحريراً نكبه

مقدمه مندرجه عنوان بالامين اپن طرف سے واسطے پیروی وجواب دہی وکل کاروائی متعلقه

آن مقام المروص كيار كون عن شاه و معرب من المراك احد المراسي مقرر کرکے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کومقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز

وكيل صاحب كوراضي نامه كرنے وتقر رثالث و فيصله پرحلف ديئے جواب دہی اورا قبال دعویٰ اور بصورت ڈگری کرنے اجراءاوروصولی چیک وروپیدارعرضی دعوی اور درخواست ہرتتم کی تصدیق

زرایں پردستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یاڈگری میکطرفہ یا پیل کی برامدگی

اورمنسوخی نیز دائر کرنے اپیل نگرانی ونظر ثانی وییروی کرنے کا مختار ہوگا۔ازبصورت ضرورت

مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کواپنے ہمراہ یا اپنے بجائے

تقرر کا ختیار ہوگا۔اورصاحب مقرر شدہ کوبھی وہتی جملہ مذکورہ بااختیارات حاصل ہوں گے

اوراس کاساختہ پرداختہ منظور وقبول ہوگا دوران مقدمہ میں جوخرچہ ہرجانہ التوائے مقدمہ کے

سبب سے وہوگا۔کوئی تاریخ پیشی مقام دورہ پر ہو یا حدسے باہر ہوتو وکیل صاحب پابند ہوں گے۔ کہ بیروی مذکور کریں ۔ لہذا و کالت نامہ کھندیا کہ سندر ہے۔

المرقوم

اه العبد الع

Acopted 2019

# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 911/2019

**Muhammad Hanif** 

V/S OTHERS

GOVT. OF KP &

### **INDEX**

S NO.	DOCUMENTS	ANNEX	PAGE NO
1	Memo of Reply		1-4
2	Documents		5-12

Respondent No. 4

Through,

Asif Ali Shah

Advocate, High Court, Peshawar 0333-9006806



# BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 911/2019

**Muhammad Hanif** 

V/S

GOVT. OF KP &

**OTHERS** 

# REPLY ON BEHALF OF PRIVATE RESPONDENT NO. 4 [Mr. Muhammad Afzal, PHST]

#### R/SHEWETH:

### **PRELIMINARY OBJECTIONS:**

- 1. That the appellant has got no cause of action/locus standi to file the instant Appeal.
- **2.** That the appellant has not come to this Honorable Tribunal with clean hands.
- **3.** That the appellant has concealed materials facts from this Honorable Tribunal.
- **4.** That the instantAppeal is not maintainable in its present form.
- 5. That the Appeal is bad due to non-Joinder &mis-Joinder of necessary parties.
- **6.** That the Appeal of the appellant is badlytime barred.
- 7. That the appellant is estopped by his own conduct to file the instant Appeal.
- 8. That, the appeal of the appellant is not maintainable in its present form as per S. 4 of the Service Tribunal Act 1974.
- 9. That the appellant emphasizes on the Khyber Pakhtunkhewa (Appointment, Deputation, Posting and Transfer of Teachers, Instructors & Doctors) Regulatory Act, but after promulgation of The Khyber Pakhtunkhewa Local Government Act, 2013 the entity of union council

(2)

has been abolished and there is no union council in the whole KPK.

### **ON FACTS:**

- 1. Para-1 of the appeal is correct as it pertains to the personal record of the appellant but it is also worth mentioning that the respondent No.4 is also the permanent resident of union council Gumbat and served the education department as primary school teacher in another union council Khushal Garh for the last 31 years.
- 2. Para-2 of the Appeal is correct to the extent that the appellant was involved in some injudicious acts and embezzlement of PTC fund and other monetary affairs.
- 3. Para-3 of the Appeal is correct to the extent that the appellant has been transferred from GPS-1, Gumbat to GPS Khushal Garh rest of the para is misleading as the appellant has not rendered services with full devotion and dedication as whole record of the appellant is full of complaints, and due to that complaints the appellant was transferred. The whole record shows that the appellant was not interested in performing his duties almost he remains absent from school and being a senior teacher he opted to teach to class nursery. The record shows his absence from duty from September 2015 till January recently the appellant with the league of 2016 and person, employee of Rangers force who was appointed as PST teacher and kept concealed his earlier job, involved in proxy / fake attendance and due to his conduct the appellant was transferred. Further more there are limited post of PSHT BPS-15 in each union council and the answering respondent is also PSHT BPS-15 have a right to be posted in his union council, it is also pertinent to mention that the appellant emphasizes on the Khyber Pakhtunkhewa (Appointment, Deputation, Posting and Transfer of Teachers, Instructors & Doctors) Regulatory Act, but after promulgation of The Khyber Pakhtunkhewa Local Government Act, 2013 the entity of union council has been abolished and there is no union council in the whole KPK. The appellant is correctly transferred as per law.
- **4.** Para-4 does not pertain to answering respondent.

3

5. That the Departmental Appeal is filed against the order dated. 10.06.2019 has been dismissed by the department after evaluating all the legal provision, and it is well versed principle that when the Departmental Appeal is dismissed / rejected on legal grounds the service appeal before the Tribunal is not maintainable.

### **GROUNDS:**

- A- Incorrect and misconceiving. That the orders dated: 10.06.2019 & 10.07.2019 has been issued by the competent authority in accordance with law and prevailing rules and may not be set aside at such belated stage.
- B- Para-B of the ground pertains to Respondent No. 1 to 3 and he would be in a better position to respond the same but after promulgation of The Khyber Pakhtunkhewa Local Government Act, 2013 the entity of union council has been abolished and there is no union council in the whole KPK
- C- Para-C is Incorrect and misconceived. As the whole record shows that the appellant was not interested in performing his duties almost he remains absent from school and being a senior teacher he opted to teach to class nursery. The record shows his absence from duty from September 2015 till January 2016 and recently the appellant with the league of person, employee of Rangers force who was appointed as PST teacher and kept concealed his earlier job, involved in proxy / fake attendance and due to his conduct the appellant was transferred. Further more there are limited post of PSHT BPS-15 in each union council and the answering respondent is also PSHT BPS-15 have a right to be posted in his union council.
- D- Para-D is Incorrect, and misconceiving.
- E- Incorrect, and misleading. As proper reply is given in the above para's.
- F- Incorrect, the appellant was treated in accordance with Law & Rules and no illegality has been committed against the Principal of Natural Justice.

4

G- That, the respondent also seeks permission of this Honourable Tribunal to agitate other ground and proof at the time of arguments.

It is therefore most humbly prayed that on acceptance of this reply, the Appeal of the appellant may kindly be dismissed with cost.

Private Respondent No. 4

MUHAMMAD Afzal (PSHT)

Through:

Asif Ali Shah

Advocate,

High Court, Peshawar

5	( <b>3</b>

	Section 1						1000				是多级			
	··			<b>5</b>		1/		٠, ١	, -	//				
		-	- <u> </u>	_ <u></u>	ممير کن	بنوار	<u> </u>	<u> برایم</u>	ردكمند	<i>√</i>		Pan C		-bs
					540	: 20/5	<u> </u>	<u> </u>	بابت	· * * * ******				
1.0	نا } عهده		دکر	مشهرا ع		لأثمر	نٺ		رفان		?	- فان	سف	ام وج
7	شانی کاردنمبر			<u> </u>		SPST	****************	14301-9	ک <i>اری</i> می دور	7		PSH	7	عبده
<u>2</u>	فن قبر تاریخ		رواعی		: : : : : : : :	- 1		<del> </del> -	-7.4.36 	<i>٩.</i> ٨٠		······································		شاختی کامانبر فون قبر
7:30	1.	3 3/	1260	آمریا در شخط کر کرا کر		ستخط روا		لی و شخط	ز روا	ر ا رستو	وستخط آ	ز رواعی	ر وستخط	in Est
Z::10	`2.	The	1265	2017	12.0	يدريما وي			13/1	2:17/			1/0/	1
7:30	3	The	2/2/31	7/2	المدانية	20 1410	17/30		20 1	1.712	30	دار کنی	dag	10:05
عتبتح	4	The	11/ 5	1-17/	west 111:		17/30		- 1.1L	7/7/3	c		<u></u>	3.7
Z:30	. <u>5</u>	M	12/13 5/	21/2	ment 12/	-	4.	Mul 12	12911	1/7	*******	<u> </u>	<u>     </u>	5.
	6			$\Rightarrow$	$\downarrow \nearrow \mid \leq$	$\Rightarrow$				$\leq$			<b>&gt;</b>  <	6
7:30	. 7 . 8	2/2	2/2	1/2	arser 12/	o visu	2/30	60 /1	ea U	2) ··		م ارد	1	7 7
7:30 7:30			Lon	18/10	husus 12/3	risal		ande	ity	<u> </u>	1/1	JMZ.		8,0
7:30	.10	13/2	12/20/5/	n/ 7/a	12/2 /2/2	N. Stul	7/30	3/11/12/3 ولارا أحرال		~[ 7/2 J 7/2	<del></del>	<del></del>		9
Z:30	, 11	(11	11/1/	1/2/00	min 11/-	o. MINI	7/30	1/2/12/3	141	1 7/3	0 / ]	10	40	10
Z:30	12	1/M	1/4 5/	W-7/2	CLE	AV	2	12/2 1/2/2	<del></del>	1/3	0		<u></u>	11
$\leq$	13													13
<u> 7:30</u>	14	The	12/2 31	W 7/2	visal 12/3	6 41202	7/30	4/2/12/3	9112	17/21	,			14
<u> 7:30</u>	15	M	12/3/8/	1/2/2	MIND 12/0	ممنعمة	7/20	C/L	.e'c	₩e				15
Z:34	7	12/11	12h 8h	1 7/2	nusur 12/0	T.	7/300	<del>(10)</del>	12.3	1/3				16.
7:3	i o	MM.	1/ 6/	1/2	nusel 12/2		775	12/3	<del></del>	) 7/20 D: 7/3	<del> </del>			17:
7:30	100	3/1	12/19/1	1/7/2	NOSUS 12/30	NUSUE		12/3	<del>~ 1 ~ 1</del>	1 7/20 1 7/30	* ****** ***			18
$\leq$	20		$\leq$						- NO.					19
<u>7:3</u>		.1	10/0/04	17/2	with 14 kg	NUSAR	Z/30 J	14/2	مالاه	7/30				20
2.3	22	2M	12/2 Sh	1/1	-0/2	109	vel	12/30	11/2	7/30	1			22
Z:3	23	38	4/2	47%	118as 14/30	visus	7/30 V	مولاا راس	سِيلًا إِ	7/30				23
	— [				$\Leftrightarrow$			$\Rightarrow \Rightarrow$	$\geq$	$\leq$			$\leq$	24
	26							ممداب	+	$\triangleright$			$\leq$	25
\ \\	27						<del>/</del>	$\Rightarrow$				$\rightarrow \downarrow \subset$	$\Rightarrow$	26
7/3		1-9	/ cav	Q-,	inh 12/2.	wisus /	7/30 1	12/20		7/30		42.		27
2.3	A		0/3/5/4	1/2	press/30	rions	7/3:	12/30	JIJ	7/30			4.	1 13
7:3		3	2/25/m	1/2/2/	jegat 12/30.	west	130 4	Ind 12/20	7.	1 - 1			- i	
	31 م زمست در	<del>"  </del>	القال الم	" خمال	ميزان .								L	. 31
<u> </u>				08			<u> انتحال</u>	د ميزان	مالقد	_	ייאילט יי		فَعَالَ نَهِ	م والمنت
	تحقاتيه				<u></u> ビヲ	_50	<u>入</u>		-9	0-2-				الفاتي
•	بمارى	3.4.3			;		-   ·-	0					, , , , , , , , , , , , , , , , , , ,	اتحقاتيه
	יגנוט						./	<u>.</u>					1.2	الک مراک
فرانك	الآفائتية	\$ 10 mg		Marina y	وستخطار فيس بأرار	<u></u>	<del></del>	3721041	373 <sup>يي</sup> س:2	12368-37	عنح فإن:358947	الس <u>ائ</u> ر د کاندران	1	مران مران مران مران مران
	Annone	20.0			· .			<del></del>	<del></del> -				,	

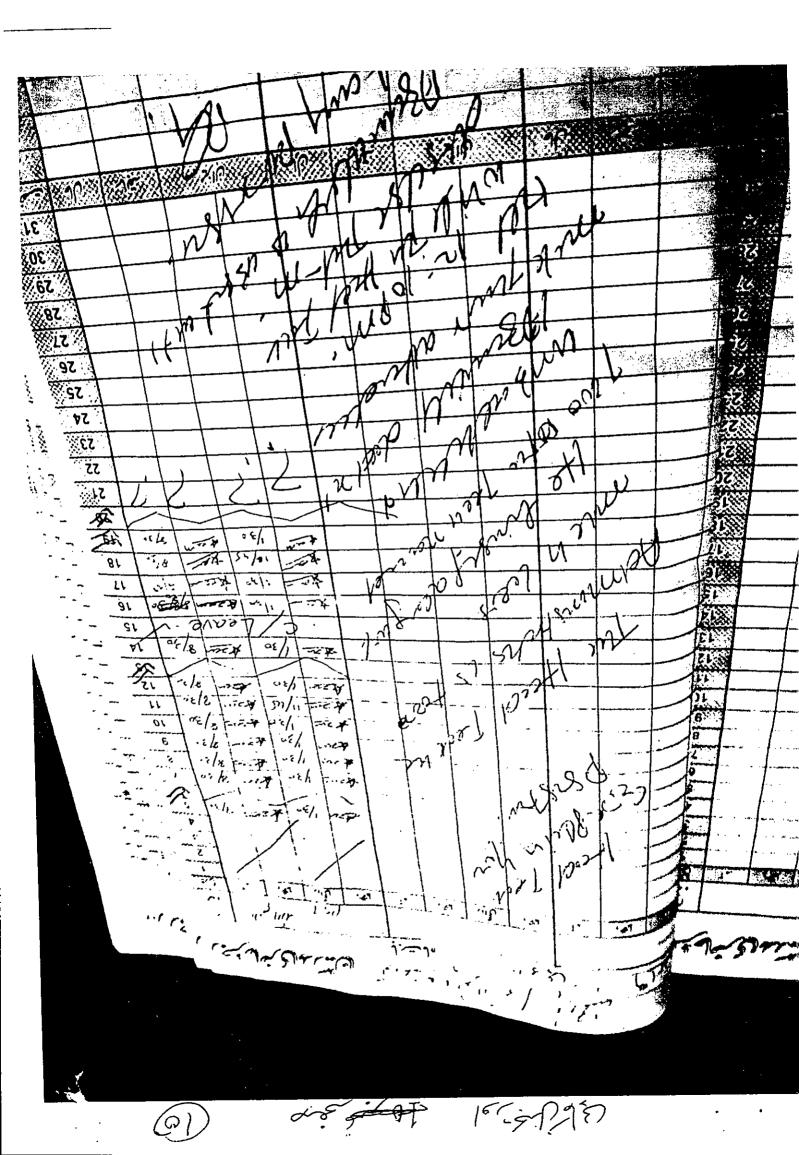
,	: ,	• ,		/	,	_	۰	5		_	(6							. * ***	
12.00	11/2	<u> </u>	ا المالة	ل كمن	ر تمب	<i>سَوُا</i> ر	<u> </u>	<u>/</u> ;	<u> </u>	گو <i>رن</i> ی			2 ND25/1	C. T	10	) (E ) (I)	-	- <u></u> -	
	<u> </u>	1, 1,57, 10	skij		ੂ 	<del>بز</del> بر	(1.1.	<u> </u>	ت ما ه	ب <b>ا</b> ب	<u>"</u>	<b>**</b>	Service Contraction					<u>ー</u>	<del></del>
77 - 25	CDC	زاربو	مسيث ر		رر ع کی	2/1	_نَدَّ		10 L	ليازة 1576	13		ا خا ن بری	يف رب	فرص	(t		<u></u>	ے پر
. 2. 16 2	ر ب برد				<u> </u>			1430	1-932	5641			رردم			يناقي ملاجمر مياتي ملاجمر	-		
101x	ارولگی	وسخط	را تُلارًا ا	ر آخط:	-E.	رتخط	نآئذ	ريخظ	<u> </u>	<u>l.</u>	وَالْمُلِينِ	وستخط	1  -E-	ا وستخط	14.5	نور بر تاریخ	-	وستخد	آر رانج
3/1	ונניט	Shu	7/20	MODAL	<del></del>		1	17.	اردان	د عط: المدالا	8/30	1.50	יעוט	( <del>2</del> d )	-41:	CIT		0	· · ·
hil	12/2	Shil	8/20	wood	12/_		8/30		12/-		8/30	Lo	na L	eave				0	
ful	1/20	8/1	8/	rise	135		8/30	1 7 7	1/35	يدال	8/31	امرم	pro	esse			5 -	2	· ;
																	¥ -	<u> </u>	
1/2/	1/3	Shy	5/20	ALLSON	1/20	_	8/20	1/1/2	135	K.	8/30	,		\	_			$\neq$	_
In	1/0	3m	10/2	אמניה	1/35		1 .		1135	M. A.	8/30	·	:		۸,			,   -	
5/W	1/4	Sm	5/2	resel	1/35	rises	8/30	1 Y	1/25	لبدلا	8/30	4	14,3	12.4	٧, ٧	1 11 22	P	<u>,                                    </u>	
SM	12/0	8/1	5/10	risul	12/-	11500	8/30		1/2	ear	le.	·	: 1			]"	12		$\dashv$
2/W	10	Shy	15/20	Wands	1/201	NISA.	8/30	11/04	11/85		8/30	8///	بحرمرموده و	5///	×///	10 V <sub>11</sub>	1	+-	+
	11/2	9/	7/		19"		0/2			011						12	P	+-	$\dashv$
1	1/2	Bh	5/4	work	1/30	NISUL	8/30	X.II	1435	المسالا	8/30		;	· ·		13	$ \sum$	X	J
fil	ih	Bh	18/2	C	1/4	eve	,	WH	1/35	JL J	8/20	-		٠		11	P		
		1	$\Rightarrow$			cicar	8/30			Hirt	8/30					15	P	<del> </del>	1
M	12/10	0/1	0/25	asos	12/-	NOR	9/30	1	1135	Mon	8/80				•••	15	1-0	-	- -
	1/2	M				Pav	5	5		7	/e					18	P	-	
	1/0	av	6	NUN	1/25	Noch	CASO	W.	1/35	W.	8/20					1 ).44	P		+
Lil	1/20	3hr	18/2		1/2	ull		Jank)	1135	N.J.	8/30	,		:		20,3	. Я	$\leq$	
	11/m		5h	risal	1/35	ribel	1 -	1/1/4	1/35	11-7	8 30		, ;	:	·.	21	$\frac{P}{Q}$	<del> </del>	<del> </del>
	1/4	5/W	0/3	לאינוניה	<i>"/-</i>	sicat	\$ 30	71/2	11/35	W	8/30	/				2:	P		+-4
2.0	11 P	3	تعطيل						$\leftarrow$							21			
			Z	S.		Ž	文	X		X	Ż		$\overline{\mathbf{x}}$	X	$\Rightarrow$	25	3	$\leq$	
In	1/2	3 fred	0/2	recirl	1/30	2134	8/39	XX	1135	المرال	8/39		*	. 3	<i>(</i> 25)	26,7		<u></u>	
hil	1/2	3/1	5%	N CSUR	77		8/3	1/2	1/35	1/2	8 50			***	* 3	.2		$\leq$	1
M C/X	000	S/NI	5/4		11.0	vidal	e 8/30		1/35		8/-					23 .	P	11. 12.	P
9 h	1	110		NUM	12/-		24	2/2	1/35		87-		:	:		30 g	-7-		P
M	eni I	Shul	8/2	C	7 7	a.v	0	7	1/35	Tr.K	8/-		,	·		3	,	-	
رُالَ 🖟	د مال :	مالقله	∹مال	ילוט יי." לוט	ا راهی	مالقة	: حال	اِن ن	ر بميزا	مابت	۔'طال ''طال	ליט טיי.	حال ا	' بقال	عال عال		אַלוט .		مابقه
1/27	7	15	2		2	07:	3		14 :	//	3			· ·		اتماتيه			<u>·</u>
(0): (0):	· !	1		·		<u> </u>			:	•	,	· · · · · · · · · · · · · · · · · · ·		1		ا <sup>ات</sup> قاتیه ماری	<del></del>		<u>.                                    </u>
<u>- الله</u>		;				!			-				,	·		م ران			
/(@)i	Calcini.	ari <sup>2</sup> arir?	04800	من تدرشا	و و المعتقلار		17781		372104	373 ثيس: 12	312368-3	7358947.	رانجين رر	أ ١٥ أمُدِوَيَاتَ	بجانة	<b>305</b> (6,			
		ر شده در در میماند		رون درونونونونونونونونونونونونونونونونونونون		دردند. حدیجانه در		- بالمصرينية			, At 1.00			4 527	-		<b>三</b>		ة حين حين
			- The second				aticum estic		بعصمات المدينة نبهم	hadan sepanda	·ن	. <del></del>	· · · · · · · · · · · · · · · · · · ·	. <del></del>			Land State of State o		
																	فنغتها	,	

Sales Sales

					100000000000000000000000000000000000000				
			b//		/ /			1-Destace Text	A STATE OF THE STA
	= 2015	1 (g (a) (	us Co	کرول کرر! من <u>دو مزا</u>	(الممر)	2 Cub 10			L. Bo
		3.11	•			بابتما			
عهده عنانتی کارد نمبر	4 A 5ρ	31/2	3 3 Ps7	ارالد	ر ا ۲۵۶۳	رالخازحا	3 10	منبف	12 16
ون مبر							P.S.H	7.	عبده شاخی کارانبر
رئ 1	ائل رخط کالا	رسخط	ل رسخط آه	وستخط روا	ر د خط آ له	رستخط روائج	ل وشخط آم	رواگل	<u>نون نبر</u> تاریخ آمد
2	2/	eave	visd 1/	5 NUMBER	12 11	30 0	30		<u>Sh</u> 1
0 3	-5//	estro es		5 NIGHTS		20 //18	30	-   :	3
o 5	3/M/1/0	- 6/M 0/	7 N/Sal/2			الم المال كا	60		4
, 6	<11 07	Laty	nisil 12/		-1-1-XII	15 1/1-1/8/ 15 World 8	20		5
a 7	Shil of o	STAL ST	1 4 1	r visne 8		<del>-   :                                   </del>	30		7
9.8					Wester		**		8
10 11	P011	2 Duty	1 1/25		2 Jul: 1/3	0 Mr. 8/	30		9 10
3¢ 12	polio	Duty	NISO 1/1	- NISAS 8/	30 Un 1/3	cuty 1			11
13	Polio.	7 77	inel 12/	visa 8/	30 Mar 4/3	<del> </del>	<del></del>		12
15	3	The Str	WW 1/3	NISM 8/3	10 1/2/ 1/3	0 4/2/8/	30		14
16		Mul Stor	word 1/35	N1348/	2 1/2/1/3	5 Und 8/2			15
30 17 1 30 18	8/1/20 C/Le	we we	NONE 1/35	siere 8/	- <del>                                    </del>	8/3	0		17
3 <sub>c</sub> 19	51 1/g	Jul. spo	C/Le	200,1138/3 11.00	1/2/1/2		<del></del>		18
30 20 30 21	SW PJ	ave	0/10	alle	Che	110			20
22	<b>**</b>		visual 1/2.	×124 8/x		ane:			21
30 23 30 24	1/2 C/60	1/8/2,	9/2	eave		1011-710/3	<del></del>		22
30 25	SM Ifo	/w/ 8/2	C/10	ave	May 1/25	Mar 8/3.	<del></del>		24
30 26	5/1/12/	N Sho	with 1/35	ice 2 8/30	Jul: 135	Mr. 8/30	<del></del>		25
3d 27 28 28	4M 12h	METE METE	21314/13	NOUN 8/30		me II De Ma			27
29				visus 8/3	11-11-11-11-11-11-11-11-11-11-11-11-11-	And 8/20			28
30 y 31 4	M173 (	n/ 8/2	work 1/35	vitut 8/50		Mr. 8/30			30
م زنست حا	۱۲/۱۱۳۸۶ میزان	مال مات	میران	حال سابقه	חילוט	حال سابقیہ	1115.0		31
الفاتيه المتحقاتيه	21	17 04	16	12 04		14 03	אילוט .		حرضت الفاقية
ماری ماری									استحقاق
میزان درد در در									10/1c
٢	1		وستخطار فيس مدرسه		3721041	<u>1</u> 37312368-37 <sup>ني</sup> س 2	زار لاهبوس ون: 35 <b>.694</b> 7	كتُبِنعَانيًا أَنْ الماءِ الروا	5)X
Vision in						er annatus (17 g. 17 metry). Anggan anggan ang pamen payther (an anahay ang get	man e stree e d'un word de después de la company de la	والربواة المضار المضامعة ومحاء أحاكمة المحاودة والمحاودة	

	ابت ماه رسی کمبیرطی مان اور این ماه است ما می ماه است ما می ماه است ما می ماه است ما می ماه است ما م است ما می ماه است ما می ماه است ما می ماه است م	- 20 - 20	15
	يصف بقاق فراكل زقان نشاراهم الشيرادفير	t Ct	
	3PST 3PST PSH1	على كالمانبر 	
	آهـ د الله الله الله الله الله الله الله ال	E.T. 1.3	, 
	11/m 6hr 8/2 [Leavery 1/35 Jul. 8/30	$\frac{1}{2}$	
British Tri	3/11 1/2 July 8/30 NOW 8/30 10 8/30	3 1 - 6	7
	3/2 12 2 Nisar 1/30 Niggi 8/30 MM 12- Avy 8/30	$\frac{4}{5}$	1
	3/N/h 8/M M C/Zeave My 1/35 Mr. 8/30	<u> </u>	生
	00/10 Th: 6/10 0/20 0/20/1/35 NOWE 8/30 July 1/30 1/30 3	7	
	ON Delin The ster ingle 1/35 ingle 8/20 (Leave	8 2	
2	3/hl 1/- 3/15/15 (Leave 1/20 W 8/30)	10	4
	1 h 9 8 h 1000 / 30 mas 8/30 M 12/35 MM 18/36	11 12	7
	121 Bright 1/35 visset 8/30 Jul 00/35 Jul 8/20	$\frac{12}{13}$	P
	1 1/25 Nm 9/30	14	2
	5/1 1/2 a/M 7/60 1/35 1/35 1/35 1/24 8/30 UPL 1195 MM 8/30	15	P
	1 19 5/ 5/ 1/30 rives 830 Mm. 1155 Mr. 880	17	P
	M 1 8/10/2 Wiruh 1/30 mare 8/30	18	K
	2 M 1/2 M 8/4 VISUS 1/30 VISUS 8/3 Jul: 1145 MA; 8/30	20	P
	1 1 1 1 1 1 20 ris of 8/20 Med; 1/35 Med; 8/30	21	
	2 1 1 1 1 1 1 1 2 1 1 1 2 0 visus 8/30 Mrs 1/30 April 8/30	22 23	P
	The 11 gld of rules 1/2 visus 8/30 Med 1/30 Mart 8/30	24	P
		25	P
		26	2
		28	2
To the second second		30	P
		31	
	القه ميزان حال سابقه ميزان حال سابقه ميزان حال سابقه ميزان	مرنصت حال الفاقيه	ָיָט ַ
( ) ( ) ( ) ( ) ( ) ( ) ( ) ( ) ( ) ( )	عران عال البقه ميزان عال البقه ميزان عران عران عران عران عران عران عران عر	التحقاقيه التحقاقيه	
では		عاری	
(2)		אילוט איל איל איל	<del></del>
	نروزاند (هوف فون: 37312368-37358947 ميس 37210412 ميس 37210412 وختيط ديمس درسياند (هوف فون: 37210412 ميس 37210412	المرونت دارات	
			.ii
- Parking St			

فخرائحا زخان SPST/CENTER شاىكارانم INCHARGE منافق كارانبر نون تبر تاريخ روانگی. ا آلد نشحط رواعي ي تارع 1 Ling **2**` 2 4 G .8 9 10 11 Aring 5/20 Mart 1/35 A(2 14 Mr. 8/31 15 2 16 **₩**6 17 .a17≥3 18 X X8 🖟 אַ 19 א Virus 8/4 20 20 🐉 21 SDBO office 23 24 24 25 11/1/8/30/4 1/3/5 **\25** 🖔 .26 🎘 '27<sup>3</sup> 28 :28 29 30 .30 § 31% بسالفه حال . ميزان حال بمابقه ميزان مابقہ مال الم فصب ميزان مابقه الفاق 2 في اتفاقه 3 2--0 اسحقاله المجقات بمارى الله بماري איוט 🗿 אייוט عَنْ مِنْ الْمُورُالِينِ الْأَجِينَ فِن: 37312368-37312368 لَيْس: 37210412



P57 80A **592** Wy Will 101 100 100 P 1 5. ŧε 74 j A 54 3.3 8/30 77 8.30 8 4.5 (0) ·e : 5.0 -**c**i2 ĎÌ  $a\epsilon_{I}$ -6/4 Messell Ť -6/18 C. M 11/45 121 1/3~ 5 2 ₹/3 18/3 1/30 21 •E/R >+|g **416**8 *∍€\€* Be . 413 rawing 20 2 · K-\$

### BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 911/2019

Muhammad Hanif

VS

Education Deptt:

## REJOINDER ON BEHALF OF APPELLANT

### RESPECTFULLY SHEWETH:

Preliminary Objections:

(1-6) All objections raised by the respondents are incorrect and baseless.

Rather the respondents are estopped to raise any objection due to their own conduct.

### FACTS:

- 1. Incorrect. The appellant is performing his duty with great devotion and honesty whatsoever assigned him.
- 2. Not relied according to para 2 of the appeal. Moreover para 2 of the appeal is correct:
- 3. Incorrect, all the teachers of the primary school are belong to same cadre whether he is in BPS-12, 14or 15and are transferable within the same union council as per sub section 3 of section 3 of Regulatory Act 2011 and cannot be transfer across the district and as the impugned order is liable to set aside on this ground alone.
- 4. Incorrect: Transfer cannot be made on administrative ground as per different Courts/Tribunal judgments. Moreover the appellate should decide the departmental appeal of the appellant with sound reason.
- 5. Incorrect. The appellant was transfer on administrative ground which is not permissible under the law and different Courts/Tribunal judgments.

#### **GROUNDS:**

- A. Incorrect. While para A of the appeal is correct.
- B. Incorrect. As replied in para 3 above.
- C. Incorrect. Transfer cannot be made on administrative ground as per different Courts/Tr|bunal judgments.

- D. Incorrect. while para D of the appeal is correct
- E. Incorrect. While para E of the appeal is correct:
- F. Incorrect. While para F of the appeal is correct.
- G. Legal.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

Through:

(TAIMUR ALI KHAN) ADVOCATE HIGH COURT.

**AFFIDAVIT** 

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

DEPONENT