

14.12.2015


Counsel for the appellant and Mr. Khurshid Khan, SO alongwith Mr. Muhammad Jan, GP for official respondents No. 1 and 2 present. Learned counsel for the appellant requested for adjournment. To come up for arguments on 11.5.2016


MEMBER


MEMBER

11.05.2016

No one is present of behalf of the appellant, M/S Khurshid Khan, SO and Hameedur Rehman, AD (Litigation) alongwith Assistant AG for respondents present. Notice shall be issued to the appellant and his counsel. To come up for arguments on 21.9.2016.

Member 

Member 

21.09.2016

None present on behalf of the appellant despite repeated calls and issuance of notice. Mr. Hameed-ur-Rehman, AD (lit.) alongwith Mr. Ziaullah, GP for respondents present. The instant appeal is dismissed in default. File be consigned to the record room.

ANNOUNCED

21.09.2016

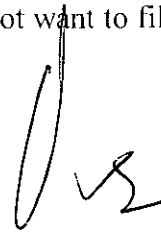

MEMBER


MEMBER

1591/13

29.08.2014

Counsel for the appellant and Mr. Muhammad Adeel Butt, AAG ^{with} Sajjad Rashid, AD and Khaista Rahman, ADO for official respondents and counsel for private respondent No. 3 present. Counsel for the appellant does not want to file rejoinder. To come up for arguments on 27.1.2014.

 MEMBER

27.1.2015

Counsel for the appellant and Mr. Ziaullah, GP with Mosam Khan, AD and Hazrat Badshah, Incharge Litigation for the official respondents and clerk of counsel for private respondent No. 3 present. The learned Judicial Member is on official tour to D.I.Khan, therefore, case to come up for arguments on 19.5.2015.


MEMBER

19.05.2015

Junior to counsel for the appellant and Mr. Javed Ahmed, Supdt. alongwith Addl: A.G for official respondents No. 1 & 2 present. Requested for adjournment as his senior counsel is not in attendance today. To come up for arguments on 14.12.2015.


Member


Member.

8.4.2014.

Clerk to counsel for the appellant, AAG with Khurshid Khan, SO and Khaista Rahman, ADO for official respondents and clerk to counsel for private respondents present. Due to strike of the bar, counsel for the parties are not available. Respondents need further time. To come up for written reply on main appeal as well as reply/arguments on stay application on 28.4.2014.

MEMBER

MEMBER

28.4.2014

Counsel for the appellant and AAG with Sajjad Rashid, AD and Khaista Rahman, ADO for respondents No. 1 and 2 and requested for time. Counsel for private respondent No.3 present and filed written reply. Copy handed over to counsel for the appellant. To come up for written reply of official respondents on main appeal as well as reply/arguments on 30.6.2014.

MEMBER

30.06.2014

Counsel for the appellant, Mr. Muhammad Jan, GP with Khaista Rahman, ADO and Mosam Khan, AD for respondents No. 1 & 2 and counsel for private respondent No. 3 present. Written reply of official respondents No. 1 & 3 received, copy whereof is handed over to counsel for the appellant. To come up for rejoinder on 29.8.2014

MEMBER

MEMBER

Appeal No. 1591/2013
Mgt. AlReem

07.02.2014

Counsel for the appellant present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Appellant filed the instant appeal on 02.12.2013 and resubmitted the same on 09.12.2013. Against the transfer order dated 25.09.2013, he filed departmental appeal on 26.09.2013 which has not been responded within the statutory period of 90 days. He further contended that the impugned transfer order is illegal and pre-mature. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notice be issued to the respondents for submission of written reply. Appellant has also submitted an application for suspension of operation of the impugned order dated 25.09.2013. Notice of application should also be issued to the respondents for reply/arguments. To come up for written reply on main appeal on 28.04.2014 as well as reply/ arguments on application on 03.03.2014.

Appellant deposited
Process fee & Security
of Rs. 180/- Bank Receipt
attached with file

07.02.2014

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

Member

Chairman

3.3.2014

Junior to counsel for the appellant, and Mr. Muhammad Jan, GP with Mosam Khan, AD for respondent No.1, Mr. Khaista Rahman, ADO for respondent No. 2 and counsel for private respondent No. 3 present and Wakalatnama plaed on file. Respondents need time. To come up for written reply on main appeal as well as reply/arguments on stay application on 4.2014.



MEMBER

MEMBER

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1591/2013


S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1		3
1	09/12/2013	<p>The appeal of Mst. Alkeen resubmitted today by Mr. Muhammad Saeed Khattak Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	12-12-2013.	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on 7-2-2014.</p> <p style="text-align: right;"> CHAIRMAN</p>

This is an appeal filed by Mst. Alkeen today on 02/12/2013 against the order dated 25.09.2013 against which she preferred a department appeal on 27.09.2013 which is premature as laid down in an authority reported as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant/counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action.

No. 1717/ST


Dt. 2/12/2013

for

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Muhammad Saeed Khattak Adv. Pesh.

Rise
The order dated 25/9/2013 passed by the Hon'ble Peshawar High Court, Peshawar, was received by the Appellant on 30/10/2013, who did not reply the departmental appeal of the appellant till date in spite of the directions issued by the Hon'ble Apex Court to decide the appeal of the petitioner (Appellant) in accordance with law, rules & policy within a period of one month whereafter the petitioner may approach a proper forum for redressal of her grievance. Here the instant Appeal in the light of the order dated 11/12/2013 passed by the Hon'ble Peshawar High Court,

Dated
5/12/2013


Advocate
Muhammad Saeed Khattak

BEFORE THE KPK SERVICES TRIBUNAL PESHAWAR

Service Appeal No. 1591 /2013

Mst. Alkeen **Petitioner**

V E R S U S

Govt. of Khyber Pakhtunkhwa
Through Secretary E&SE & Others..... **Respondents**

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Memo of Appeal		1-6
2.	Petition for interim relief		7-8
3.	Copy of the notification and charge report	"A" & "A/1"	9-10
4.	Copy of the impugned office order 25/09/2013	"B"	11
5.	Copy of the Department appeal dated 27/09/2013	"C"	12
6.	Copy of the writ petition No 2631-P/2013 along with order dated 11/10/2013	"D" & "D/1"	13-19
7.	Wakalatnama		20

Through *Petitioner Alkeen*

Fawad Ahmad
Fawad Ahmad

Muhammad Saeed Khattak
Muhammad Saeed Khattak

&

Adnan Khan
Adnan Khan
Advocates High Court

Cell No.0345-3973733

Dated 02/12/2013

BEFORE THE KPK SERVICES TRIBUNAL PESHAWAR

Service Appeal No. 1591 /2013

Mst. Alkeen W/o Wahid Gul
R/o Lond Khwar Tehsil Takht Bhai, District Mardan,
Presently Residing at House No.190, Street No.8, Sector
N-2, Phase-IV, Hayatabad, Peshawar.....**Petitioner**

L.W.P. Province
Case No. 1604
Date 02/12/13

V E R S

1. Director, Elementary & Secondary Education,
Khyber Pakhtunkhwa Peshawar
2. District Education Officer (female) Elementary &
Secondary Education Peshawar
3. Mst. Hamida Begum C.T Teacher GHMS Hayat
Abad, Peshawar. **...Respondents**

**SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1973,
AGAINST THE IMPUGNED ORDER DATED 25/09/2013,
AGAINST WHICH THE DEPARTMENTAL APPEAL DATED
2/12/13 WAS NOT REPLIED INSPITE OF THE DIRECTIONS OF
THE HONB'LE PESHAWAR HIGH, PESHAWAR IN WP
No.2631-P/2013 IN THE FOLLOWING TERMS "AS SUCH
RESPONDENT No. 3 IS DIRECTED TO DECIDE THE
APPEAL OF TH PETITIONER IN ACCORDANCE WITH
LAW, RULES AND POLICY WITHIN A PERIOD OF ONE
MONTH, WHERAFTER THE PETITIONER MAY**

re-submitted to-423
and filed,

2/12/13

**APPROACH THE PROPER FORUM FOR REDDRESSAL
OF HER GRIEVANCE”.**

PRAYER IN APPEAL

**ON ACCEPTANCE OF THE INSTANT SERVICE APPEAL
THE IMPUGNED TRANSFER ORDER IN FAVOUR OF
RESPONDENT No. 3 MAY KINDLY BE CANCELLED BY
DECLARING IT ILLEGAL, UNLAWFUL, WITHOUT
LAWFUL AUTHORITY, POLITICALLY INFLUENCED
AND INEFFECTIVE UPON THE RIGHTS OF THE
APPELLANT.**

Respectfully Sheweth: -

1. That the petitioner is the bonafide resident of Khyber Pakhtunkhwa serving as C.T. Teacher in the Department of the respondents since her appointment.
2. That the office of Respondent No.2 vide notification having Endst.No.3058-63 dated 08/05/2013 being competent authority was pleased to order the transfer of the petitioner in her own pay and scale from GGMS Ahmad Khel Peshawar to GGMS Hayatabad, Peshawar in compliance of the same the petitioner submitted her charge report on 14.05.2013 to the headmistress GGMS Phase-III Hayatabad. (Copy of the notification and charge

report is attached as annexure "A" & "A/1" respectively).

3. That the respondent No. 2 vide impugned order having Endst.No.1850-52 dated 25/09/2013 in contrast of policy, rules and regulations cancelled the earlier transfer order for the pleasure of her political bosses. (Copy of the impugned office order is attached as annexure "B").
4. That the petitioner preferred an appeal before the respondent No.2, which was numbered as DEO (F) Diary No.729, dated 27.09.2013. (Copy of the Department appeal is attached as annexure "C").
5. That the petitioner being aggrieved of the same having no speedy remedy before her preferred writ petition which was numbered WP 2631-P/2013 (annexed D), which was disposed of vide order dated 11-10-2013 in the following terms, " as such respondent no 2 is directed to decide the appeal of the petitioner in accordance with law, rules and policy within a period of one month, where after the petitioner may approach the proper forum for the redressal of her grievance, (annex D/1) hence the instant service appeal inter-alia on the following amongst others:

GROUND S -

- A. That the appellant has not treated in accordance with law, nor equal protection of law has been extended to her.
- B. That the order (impugned herein) has been issued just for pleasure and due influence of the political bosses, which is against and is in contradiction with the policy, rules and regulations, such role of the official respondents has already been condemned by the apex courts in their so many judgments.
- C. That the Hon'ble apex court have issued direction to the government functionaries in their so many judgments to get freely, fairly without feeling any pressure of the political persons. They are supposed to perform their duties freely and fulfilling rules and regulations on the subject matter. In the instant case the respondents have totally ignored the directions issued by the Hon'ble apex courts in such like matters.
- D. That the impugned order made in favor of respondent No: 3 is nullity in the eyes of law for the reason that the copy of the impugned office order vide endorsement No: 1850-52 dated Peshawar 25/09/2013 where copy of the same was forwarded to minister for education E & SE KP instead of the quarter concerned.

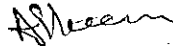
- E. That order dated 25/09/2013 (impugned herein) is passed in the violation of article 4 of the constitution of Islamic republic of Pakistan R/W section 24-A of general clause act, 1897.
- F. That the besides the instant impugned premature transferred order of the appellant, the respondents have made such like her transfer order in the past. Thus indiscriminate and repealed transfer orders had been made by the respondents irrespective of the consideration of public interest, without rhyme or reason are malafide arbitrary, against the cannons of justice equity and fair play, hence liable to be set aside.
- G. That the appellant's being a female residing at hayatabad, where her children are also receiving education. In such a situation not only the appellant will find it difficult in performing her duties but also the education of her children will suffer a lot.
- H. That any other ground can also be taken during the arguments with permission of this Hon'ble tribunal.

It is, therefore, most humbly prayed that on acceptance of the service appeal, the impugned transferred order may kindly be declared illegal,

unlawful, without lawful authority and politically influenced, hence be cancelled.

Any other remedy, which has not been specifically asked for and deems fit in circumstances of the case may also be awarded to the appellant against the defendants.

Appellant



Through



Fawad Ahmad



Muhammad Saeed Khattak

&



Adnan Khan

Advocates High Court

Dated 02/12/2013

IN THE K.P.K. SERVICE TRIBUNAL, PESHAWAR

C.M. No. -----/ 2013

IN

Service Appeal No. -----/ 2013

Mst. AlkeenPetitioner**V E R S U S****Govt. of Khyber Pakhtunkhwa
Through Secretary E&SE & Others.....Respondents****PETITION FOR INTERIM RELIEF IN SHAPE OF
SUSPENSION OF THE OPERATION OF THE
IMPUGNED ORDER DATED 25/09/2013.****Respectfully Sheweth,**

1. That the titled Service appeal has been filed today in which no date has yet been fixed for hearing.
2. That all the three ingredients like strong prima facie case, balance of convenience and irreparable loss are best inclined in favor of the Appellant against the Respondents.
3. That the impugned order is politically influenced, such like act / the apex courts in their so many judgments have already condemned omission of the officials.

4. That any other ground can also be taken during the arguments with permission of this Hon'ble Tribunal.

It is therefore most humbly prayed that on acceptance of the instant petition the operation of the impugned order may kindly be suspended till final disposal of the main appeal or she may kindly be allowed to continue her duties at her previous school till final disposal of the main appeal.

Petitioner / Appellant

Through


Fawad Ahmad


Muhammad Saeed Khattak

&


Adnan Khan

Advocates High Court

Dated 02/12/2013

9

BB

Annex: "A"

OFFICE OF THE DISTRICT EDUCATION OFFICER FEMALE PESHAWAR.

OFFICE ORDER

The Content authority is pleased to order the transfer of the following C.T. teachers on their own pay and scale in the interest of public service with immediate effect.

S.NO.	NAME/DESIGNATION/SCHOOL	TRANSFERRED TO	REMARKS
1.	Ms. Alkeen CT GGMS Ahmad Khel Peshawar	GGMS Hayatabad Peshawar	Vice S.No.2
2.	Ms. Hamida Begum CT GGMS Hayatabad Peshawar	GGMS Ahmad Khel Peshawar	Vice S.No.1

Note :- Charge report should be submitted to all concerned.

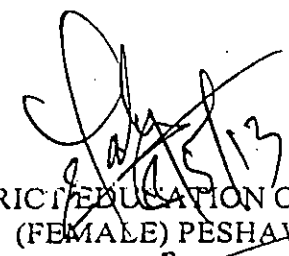
No TA/DA etc is allowed.

(SOFIA TABASSUM)
DISTRICT EDUCATION OFFICER
(FEMALE) PESHAWAR.

Endst: No. 3058-63 /dated 8/5 /2013

Copy of the above is forwarded to the :-

1. Accountant General Khyber Pakhtun khwa Peshawar.
- 2-3. Head Mistress concerned.
- 4-5. Teachers concerned.
6. Cashier local office.


DISTRICT EDUCATION OFFICER
(FEMALE) PESHAWAR.

etc etc

10

Annex: A-1

Diary no. 870

870

14/5/2013

9/7

To

The Headmistress
GGMS Phase 3, Hayatabad Peshawar

Subject: Request for acceptance of Charge Assumption Report

Dear Madam

In compliance with the District Education Officer (F) Peshawar Office Order No. 3058-63 dated 08/5/2013

I have the honour to submit my Arrival Report for duty in GGMS Hayatabad Peshawar on 14/5/2013 F/Noon

Obediently Yours

Alkeen CT

HEAD MISTRESS
Govt Girls Middle School
Phase-3 Hayatabad
Peshawar

etc [Signature]

11 8

Annex B

OFFICE OF THE DISTRICT EDUCATION OFFICER FEMALE E & S PESHAWAR

OFFICE ORDER.

Consequent upon the approval from the competent authority the order issued

under Endt :No 3058-63 Dated 8/5/2013 may be treated as cancelled with immediate effect.

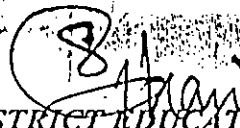
Note:- Charge report should be submitted to all concerned.
No TA/DA etc is allowed.

(SAMINA GHANI)
DISTRICT EDUCATION OFFICER
FEMALE: PESHAWAR

Endt No 1850-52 Dated Peshawar the 25/9/ 2013

Copy to the:-

- 1 Minister For Education Elemantry & Secondary Khyber Pakhtun Khwa Peshawar
- 2-3 Head Mistress concerned
- 4 Cashier local Office Peshawar


DISTRICT EDUCATION OFFICER
FEMALE E & S PESHAWAR

etc

(12)

(19)

Annex: "C"

DEC (F)
Diary

No. 729

27.9.2013

To
The District Education Officer (F)
E & S District Peshawar

Subject: Appeal

Dear Madam

It is stated with regards that I was transferred vide your office order No. 3058 - 63 dated 8 / 5 / 2013 (copy attached as Annex. A). I submitted my arrival report to your esteemed office under diary No. 870 dated 14 / 5 / 2013 (copy attached as Annex. B)

After just working at the new station for *4 months*, I am again transferred under your office order No. 1850 - 52 dated 25 / 9 / 2013 (copy attached as Annex. C). It seems unjustified

It is therefore requested that I may not please be re-transferred, rather kept in the same school. No matter if I am transferred to Govt. JICA model school Hayatabad phase - 1. Another option is that the same middle school is expected to be upgraded.

The appeal may please be dealt with within the legal timeframe

I'll be grateful

Date: 26 / 9 / 2013

Obediently Yours,



Alkeen C T
Govt. Girls Middle School
Hayatabad Phase - 3

ote
ctt

IN THE PESHAWAR HIGH COURT, PESHAWAR

W.P. No. 2631-P/2013



Mst. Alkeen W/o Wahid Gul
R/o Lond Khwar Tehsil Takht Bhai, District Mardan
Presently Residing at House No.190, Street No.8, Sector
N-2, Phase-IV, Hayatabad, Peshawar.....**Petitioner**

V E R S U S

1. Govt. of Khyber Pakhtunkhwa through
Secretary Elementary & Secondary Education,
Peshawar
2. Director, Elementary & Secondary Education,
Khyber Pakhtunkhwa Peshawar
Dabgari Garden Peshawar
3. District Education Officer (female) Elementary &
Secondary Education Peshawar**Respondents**
GHSS No:1 Hashmagn Peshawar

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

Respectfully Sheweth:-

1. That the petitioner is the bonafide resident of
Khyber Pakhtunkhwa serving as C.T. Teacher in
the Department of the respondents since her
appointment.

FILED FOR
Deputy Registrar
05 OCT 2013

ATTESTED
EXAMINER
Peshawar High Court

etc
[Handwritten initials]

2. That the office of Respondent No.3 vide notification having Endst.No.3058-63 dated 08/05/2013 being competent authority was pleased to order the transfer of the petitioner in her own pay and scale from GGMS Ahmad Khel Peshawar to GGMS Hayatabad, Peshawar in compliance of the same the petitioner submitted her charge report on 14.05.2013 to the headmistress GGMS Phase-III Hayatabad. (Copy of the notification and charge report are attached as annexure "A" & "A/1" respectively).
3. That the respondent No.3 vide impugned order having Endst.No.1850-52 dated 25/09/2013 in contrast of policy, rules and regulations cancelled the earlier transfer order for the pleasure of her political bosses. (Copy of the impugned office order is attached as annexure "B").
4. That the petitioner preferred an appeal before the respondent No.3 which was numbered as DEO (F) Diary No.729 dated 27.09.2013. (Copy of the Department appeal is attached as annexure "C").
5. That the petitioner being aggrieved of the same and having no other adequate speedy, alternate and efficacious remedy prefers the instant writ petitioner inter alia, on the following amongst others

FILED TODAY
 Deputy Registrar
 05 OCT 2013

ATTESTED
 EXAMINER
 Peshawar High Court

CTR
 [Signature]

GROUND S:-

A. That the petitioner has not been treated in accordance with law, rules and policy on the subject and actual in violation of Article 4 of the constitution her departmental appeal is pending with respondent No.3 without disposal and has been delayed without any reason, public functionaries by no stretch of imagination were justified to remain indifferent in pending issues important for their employees when they had power either to accept or reject the appeal must decide it on merits within reasonable time, so that the aggrieved employee should either get satisfied or seeks further available remedy delay would prolong uncertainties, snatch piece of mind and create agonizing tensions, public functionaries should act to eliminate problems and not is a way to create further problems, Reliance is placed on 2009 PLC (CS) 77,(Pesh).

B. That,all public powers are in nature of a trust and public functionaries must act as repositories of such trust. The respondent No.3 was under legal obligations to decide the pending appeal before him, but he kept his mum over the disposal of the appeal, which is/was lightly unwarranted by law.

FILED FOR
 Deputy Registrar
 05 OCT 2013

ATTESTED
 EXAMINER
 Reshwar High Court

CFC
 CAT

- C. That the impugned order has been issued just for pleasure and due to influence of the political bosses which is against the policy, rules and regulation, such type role of official respondents have already been condemned by the apex courts in their so many judgments.
- D. That the Hon'ble Apex Courts have issued direction to the government functionaries in their so many judgments to act freely, fairly without feeling any pressure of the political persons. They are supposed to perform their duties freely and fulfilling rules and regulations on the subject mater.
- E. That any other ground may be taken at the time of arguments, with the kind permission of this Hon'ble Court.

It is, therefore, most humbly prayed that on acceptance of the instant writ petition, the impugned Office Order dated 25/09/2013 may very graciously be declared as unlawful, without lawful authority, ineffective upon the rights of the petitioner. Void abinitio.

Any other remedy which deems fit in circumstances of the case may also be granted in favour of petitioners.

FILED TODAY
Deputy Registrar
05 OCT. 2013

ATTESTED
BY
etc.
etc.

INTERIM RELIEF:-

That all the three ingredients like strong prima facie case, balance of convenience and irreparable loss are best inclined in favour of the petitioner against the respondent. Thus by the way of an interim relief the operation of the impugned order dated 25/09/2013 may kindly be suspended till the final disposal of the main writ petition.

Through **Petitioner**
(F) Fawad Ahmad

Fawad Ahmad
Muhammad Saeed Khattak
Muhammad Saeed Khattak

&
Adnan Khan
Adnan Khan

Dated 05/10/2013 **Advocates High Court**

CERTIFICATE:

Certified on instructions of my client that petitioner has not previously moved this Hon'ble Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 regarding the instant matter.

Adnan Khan
ADVOCATE

LIST OF BOOKS:

- 1. Constitution of Islamic Republic of Pakistan, 1973
- 2. Any other law books according to need

Adnan Khan
ADVOCATE

FILED TODAY
Deputy Registrar
05 OCT 2013

ATTESTED
EXAMINER
Peshawar High Court

99
27

PESHAWAR HIGH COURT, PESHAWAR
FORM "A"
FORM OF ORDER SHEET.

Court of
Case No.....

Serial No of order or proceeding	Date of Order or Proceeding	Order or other proceedings with Signature of judge or Magistrate and that of parties or counsel where necessary
1	2	3
	11.10.2013.	<p><u>W.P.No.2631/2013.</u></p> <p><u>Present:-</u> Mr.Fawad Ahmad Advocate for the petitioner.</p> <p>=====</p> <p><u>QAISER RASHID KHAN, J:-</u> At the very outset, the learned counsel for the petitioner was confronted with the explicit provision of Article 212(2) of the Constitution of Islamic Republic of Pakistan, 1973, whereby the jurisdiction of this Court is barred to interfere in matters relating to the terms and conditions of civil servants, for which a proper forum is available. Faced with the said constitutional bar, the learned counsel for the petitioner requested that he has already preferred a departmental appeal before the respondent No.3, which has not been decided as yet. As such respondent No.3 is directed to decide the appeal of the petitioner in accordance</p>

ATTESTED

EXAMINER
Peshawar High Court

etc.
etc.

with law, rules and policy within a period of one month, whereafter the petitioner may approach the proper forum for the redressal of her grievance but certainly not before this Court through any petition. This petition stands disposed of.

Sd/- Justice Rashid Khan
Sd/- Justice Hamidullah Khan

CERTIFIED TO BE TRUE COPY

Examiner
 Peshawar High Court Peshawar
 Authorised Under Article 87 of
 the Qanun-e-Adalat Order 1984

5187

No.
 Date of Presentation of Application... 17-10-13
 No. of Pages... 9P
 Copying fee... /
 Urgent Fee... /
 Total... 18.00
 Date of Preparation of Copy... 26-10-13
 Date Given For Delivery... 26-10-13
 Date of Delivery of Copy... 26-10-13
 Received By... Adnan Khan

26-10-13

OK
 CA

Office
 23/10/13
 46

WAKALATNAMA

IN THE KPK SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO _____/13

Mst Alkeen

Versus

Director E & SE KPK and others

I Petitioner do hereby appoint, constitute and authorize

Mr. Muhammad Saeed Khattak,
Adnan Khan & Fawad Ahmad Utmankhel
Advocates Peshawar High Court.

In the mentioned case to do all or any of the following acts, deeds and things:

To appear/ plead and act for me/us in the case in reference as required by law/ matter

To sign, verify and file or withdraw all or any of the proceedings, petition, appeals, affidavits and applications for compromise submit the matter to arbitration for proper disposal of the case, submit or withdraw other documents, as may be deemed necessary or advisable by me/us for the conduct, prosecution or defense and further proceeding of the case at all its stages

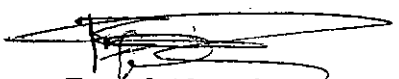
To receive payment of and issue receipts for, all moneys that may be or become due and payable to me/us during the course of the proceedings and hereby agree that counsel mentioned above shall be entitled to withdraw from the prosecution/ conduct of the case if the whole or any part of the agreed fee remains unpaid. All acts and deeds so performed by my counsel shall be considered as acts and deed, performed by me/ us.

So we/ I hereby sign the same after going through its contents, accepting the same and effective between us till it is cancelled or withdrawn by Counsel or us/ me

Attested and accepted


Muhammad Saeed Khattak


Adnan Khan


Fawad Ahmad Utmankhel
Advocates High Court
Peshawar.

Alkeen
Executant

IN THE PESHAWAR HIGH COURT, PESHAWAR

W.P. No. 2631-P/2013

Mst. Alkeen W/o Wahid Gul
R/o Lond Khwar Tehsil Takht Bhai, District Mardan
Presently Residing at House No.190, Street No. 3, Sector
N-2, Phase-IV, Hayatabad, Peshawar.....**Petitioner**



VERSUS

1. Govt. of Khyber Pakhtunkhwa through
Secretary, Elementary & Secondary Education,
Peshawar

2. Director, Elementary & Secondary Education,
Khyber Pakhtunkhwa Peshawar
Dabgari Garden Peshawar

3. District Education Officer (female) Elementary &
Secondary Education Peshawar**Respondents**
GHSS No:1 Hashtrigri Peshawar

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

Respectfully Sheweth:-

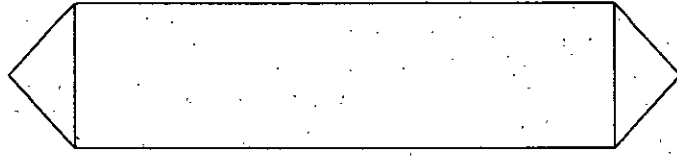
1. That the petitioner is the bonafide resident of Khyber Pakhtunkhwa serving as C.T. Teacher in the Department of the respondents since her appointment.

FILED
Deputy Registrar
05 OCT 2013

ATTESTED
EXAMINER
Peshawar High Court

CTC
[Signature]

بعدالت سپریم کورٹ لنڈا



رسالہ نمبر 3
ڈائریکٹر ایجوکیشن

2014ء پنجاب
بنام

03 مارچ

سعادہ اکیڈمی
سررسز

مورخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام سپریم کورٹ کیلئے فصل ری درو اینڈ عمر المدظم خان اینڈ وکیل
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت
مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے
تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے
اور اس کا ساختہ پر داختم منظور قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے
سبب سے وہ ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں
گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

Accepted

Advocate
Supreme Court

2014ء

مارچ

ماہ

03

المرقوم

Advocate
High Court Pesh

العبد العبد
مقام کے لئے منظور ہے۔
Hassan Bagan

BEFORE THE SERVICES TRIBUNAL PESHAWAR, KPK

In Service Appeal No. 1591/2013

Mst. Alkeen.....Appellant

V E R S U S

Director Elementary and Secondary Education
And 2 others.....Respondents

Reply on behalf of/for respondent No.3

Preliminary objections:

1. That the appellant has got no cause of action.
2. That the appellant has not come to this Hon'ble Tribunal with clean hands and suppressed the material facts, only on this ground the appeal may please be dismissed.
3. That the appeal is badly bared by law and time and hence liable to be rejected.
4. That the appeal is not maintainable in its present form.
5. That the answering respondent is residing in Hayat Abad Peshawar with her family and her husband is in service of PDA Hayat Abad, hence both the spouses should be at the same venue according to prevailing spouse policy

Facts:

1. Para no.1 needs no reply.
2. Para no.2 is correct to the extent that the illegal order dated 08-05-2013 was made during the tenure of interim government just before general elections in favor of appellant but the appellant suppressed the true facts. The true facts are that the above mentioned illegal order was made in favor of appellant due to political influence and against the answering respondent, because the answering respondent was transferred well before her due time at the said post. The answering respondent then filed an appeal to the concerned authority for cancellation of the above referred illegal order which was acted upon according to law and rules and prevailing policy.

(Copies of the relevant documents are enclosed)

3. Para no.3 is incorrect.
The order of respondent no.2 dated 25-09-2013 having Endst. No. 1850-52 is according to law rules and policy. The related circumstances are discussed in the above Para.
4. Para No. 4 is subject to proof.
5. Para No. 5 needs no reply being irrelevant.

Grounds:

- A & B.** Denied as laid being incorrect and base less.
- C.** Incorrect. Respondents are not under the influence of any political persons ignored any directions of apex court. Rather respondents acted legally and according to law in the instant matter.
- D.** Denied as laid being incorrect.
- E.** Incorrect hence denied.
- F.** Denied as laid being incorrect and frivolous.
- G.** No comments as subject to proof. Same is the case with answering respondent.
Any other appropriate ground may also be taken into consideration during arguments with the permission of this Hon'ble Tribunal.

It is there fore most humbly prayed before this Hon'ble tribunal that the appeal in hand may please be rejected, any other remedy this Hon'ble Tribunal may deem fit may also be given.

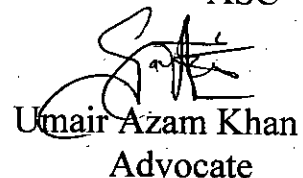
Respondent no. 3

Through



Fazli Rabbi Dard
ASC

&



Umair Azam Khan
Advocate

High Court Peshawar

BEFORE THE SERVICES TRIBUNAL PESHAWAR, KPK

In Service Appeal No. 1591/2013

Mst. Alkeen.....Appellant

VERSUS


Director Elementary and Secondary Education
And 2 others.....Respondents

AFFIDAVIT

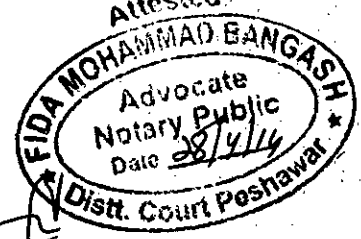
I, Mst Hamida Begum w/o Aftab Ahmad r/o Hayat Abad Peshawar, KPK, do
Hereby solemnly affirm and declare on oath that the contents of this reply to the
Service appeal are true and correct to best of my knowledge and belief and nothing
Has been concealed from this Hon'ble Tribunal.

DEPONENT

Identified by


Umaid Azam Khan
Advocate
High Court Peshawar



Attested

FIDA MOHAMMAD BANGASH
Advocate
Notary Public
Date 28/4/14
Distt. Court Peshawar

BEFORE THE SERVICES TRIBUNAL PESHAWAR, KPK

IN Re C.M. No. _____/2013

In Service Appeal No. 1591/2013

Mst. Alkeen.....Appellant

V E R S U S

Director Elementary and Secondary Education
and 2 others.....Respondents

**Reply on behalf of/for respondent No.3 to the
application of interim relief**

Respectfully Sheweth:

1. Para no.1 needs no reply.
2. Para no.2 is incorrect. Plaintiff has got no prima facie case. Balance of convenience lies in the favor of answering respondent and in fact the answering respondent will suffer irreparably if interim relief is granted to the appellant.
3. Incorrect, hence denied.
4. Needs no reply.
5. That the preliminary objections, facts and grounds in the reply to main appeal of answering defendants may please be read as integral part of this reply to the application in hand.

It is there fore most humbly prayed before this Hon'ble Tribunal that on accepting of this reply the application in hand may please be rejected with costs.

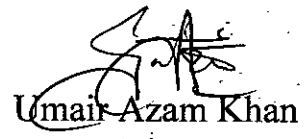
Respondent no. 3

Through



Fazli Rabbi Dard
ASC

&


Umair Azam Khan

Advocate
High Court Peshawar

BEFORE THE SERVICES TRIBUNAL PESHAWAR, KPK

In Service Appeal No. 1591/2013

Mst. Alkeen.....Appellant

VERSUS

Director Elementary and Secondary Education
And 2 others.....Respondents

AFFIDAVIT

I, Mst Hamida Begum w/o Aftab Ahmad r/o Hayat Abad Peshawar, KPK, do
Hereby solemnly affirm and declare on oath that the contents of this reply to the
Application of interim relief are true and correct to best of my knowledge and
Belief and nothing has been concealed from this Hon'ble Tribunal.

DEPONENT

Identified by

Umar Azam Khan
Advocate
High Court Peshawar

گورنمنٹ - سیکرٹریٹ

1
2
3
4

1. افسر ایڈمنسٹریٹو
2. ڈپٹی سیکرٹری
3. سیکرٹری ایڈمنسٹریٹو
4. ڈائریکٹر ایڈمنسٹریٹو

روزانہ نمبر کنسلٹیشن کے لئے صحت آباد سٹریٹ 3/م 9-9-9 سکول
 آؤٹ سے افسر ایڈمنسٹریٹو
 یو جی ڈیل

صبا عالی سائیکل سب ڈپل عزمیہ اسکول

دن میں سائیکل صحت آباد سٹریٹ 3/م 9-9-9 سکول میں
 بجوے 8:30 کو ٹیچرن حکومت کی دیواری میں 545 فی میل سائیکل کو افسر ایڈمنسٹریٹو
 سرائف کی جوہ سائیکل کا مریض اور مریض جو عیال آباد میں پورے مہینے تک مکمل ہوئی ہے
 گورنمنٹ سائیکل کو تبدیل میں جو فٹنگ قانون اور قواعد ہیں

پہلے سے مذکورہ سائیکل گورنمنٹ میں تھی اور اس سائیکل میں سپریم کو سے گورنمنٹ
 کے عیال آباد میں اس سائیکل کو صحت آباد میں مذکورہ سائیکل کی فٹنگ
 ہے جوہ سائیکل کے دور مریض اور مریض جو تھیں انہیں سے مریض ہیں

صبا عالی سائیکل کا دور دراز علاقہ افسر ایڈمنسٹریٹو کے پاس ہے اور انہیں سے مریض
 کے عیال آباد میں جو سائیکل کے مریض سے باہر ہے
 ہے جوہ سائیکل کے مریض سے مریض کے عیال آباد میں دور دراز علاقہ میں
 گورنمنٹ سائیکل کے مریض سے مریض ہیں

اس سائیکل کے مریض کے عیال آباد میں جو سائیکل کے مریض سے باہر ہے
 کے عیال آباد میں جو سائیکل کے مریض سے باہر ہے
 والی سائیکل کے مریض کے عیال آباد میں جو سائیکل کے مریض سے باہر ہے
 صبا عالی 18/06

صبا عالی سائیکل کے مریض کے عیال آباد میں جو سائیکل کے مریض سے باہر ہے
 03005882473

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR

SERVICE APPEAL No: 1591/2013

**Mst: Alkeen W/O WAHID GUL House No: 190, Street No: 8 Sector N-2,
Phase -V Hayat Abad Peshawar.** -----Applicant

VERSUS

Director Elementary & Secondary Education Department Khyber Pakhtunkhwa, Peshawar &
others -----Respondents

PARAWISE COMMENTS/REPLY FOR AND ON BEHALF OF THE RESPONDENTS

No: 1 to 2.

Respectfully Sheweth:-

Preliminary objections

- 1 That the appellant has got no cause of action..
- 2 That the appellant has concealed the material fact from this Hon! able Tribunal, hence liable to be dismissed.
- 3 The the instead appeal is bad for mis-joinder and no- joinder of necessary parties.
- 4 That the appellant has not come to this Hon! able Tribunal with clean hands.
- 5 That the transfer order dated 25/9/2013 is legally competent and is liable to be maintained.
- 6 That the present appeal has been filed on malafide intentions.
- 7 That the respondent No: 2 is empowered to post and transfer a Civil Servant wherever her services are required.
- 8 That the present appeal is against ht e relevant service rules

ON FACTS


- 1 That Para 1 pertains to record, hence needs no comments.
- 2 Pertains to record.
- 3 That Para 3 is incorrect to the extent that the relevant rules and policy with regard to the transfer order dated 25/9/2013 in respect of the appellant against the CT post have been violated, rather the said transfer order has been issued in the interest of Public Service and policy.
- 4 That Para-4 pertains to the record, hence no comments.
- 5 That Para 5 is correct to the extent that the appellant has filed a writ petition bearing No: 2631 -P/2013 before the August Peshawar High Court, Peshawar which was decided vide order dated 11/10/2013 in terms of article 212(2) of the constitution of Islamic Republic of Pakistan -1973. (copy of the order sheet dated 11-10-2013 is attached).


GROUNDS

- A That ground A is incorrect & denied, the appellant has been treated in accordance with law, rules & policy.
- B That ground B is also incorrect & misleading, the transfer order dated 25/9/2013 has been issued in the light of rules, policy & in the interest of public service as well as in the lights of facts, need and circumstances of the case.
- C That Ground-C is also incorrect & denied, the transfer order dated 25/9/2013 has been issued in the interest of public service, jurisdiction discretion and policy.
- D That ground-D is also incorrect & denied, detailed reply of this Para has been given in the above Paras.
- E That ground E is incorrect and mis-leading, the said order has been issued in the light of relevant provision of law having no violation of rules & Policy.
- F That ground "F" is incorrect and mis-leading, detailed reply has been given in the above mentioned paras
- G That ground "G" needs no comments, being pertains to the domestic problems of the appellant, however, a civil servant is under the obligation as per rules /law etc: to serve any where , wherever her services against the noted post are required by the competent authority
- H That ground "B" is legal, however the respondents seek leave of this Hon! able Tribunal to advance and submit additional grounds and case law at the time of arguments before this Hon! able Tribunal.

It is, therefore, submitted that on acceptance of this reply, the appeal of the present appellant may very kindly be dismissed in favour of the respondents, with cost through out.

Any other relief deems fit and proper in the given circumstances may also be granted in favour of the respondents.


District Education Officer,
(Male) District Peshawar.


Director
E&SE Khyber Pakhtunkhwa,
Peshawar.

BEFORE THE KHYBER PAKHTOONKHA SERVICE TRIBUNAL PESHAWAR.

Service appeal NO. 1591 /2013.

Mst. AlkeenVersus..... The Director E&SED, KPK & others.


REPLY TO THE STAY APPLICATION ON BEHALF OF THE RESPONDENTS.

Respectfully Sheweth:-

The respondents NO.1 & 2 submit as under:-

1. That Para -1 needs no comments.
2. That Para-2 is incorrect and denied, the appellant has got no prima facie case nor balance of convenience and the aspect of ir-parable loss len in favour of the appellant, rather the transfer order dated 25.09.2013 is legally competant and has been issued in the light of the rules and Policy.
3. That Para-3 is also incorrect and denied, the sqid order is in within legal sphere and according to the relevant Policy.
4. That Para-4 is legal, however, the respondents NO.1 & 2 seek leave of this Honourable Court/Tribunal to advance additional case law and record at the time of arguments.

It is, therefore, submitted that the status quo order may kindly be set aside in favour of the respondents.


District Education Officer,
(Female) Peshawar. 4
District Education Officer
(Female) Peshawar
(PA)