

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

(Camp Court, Abbottabad)

Appeal No.1492/2019**Date of Institution ... 06.11.2019****Date of Decision ... 14.10.2021**

Ghulam Nabi son of Qazi Ghulam Mustafa, resident of Upper Salhad Abbottabad presently serving as SAT at GHS Bodla. ... (Appellant)

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education, Peshawar and three others.

...(Respondents)

Present.

Sardar Muhammad Azeem,
Advocate

... For appellant.

Mr. Usman Ghani,
District Attorney

... For respondents.

MR AHMAD SULTAN TAREEN
MR. SALAH-UD-DIN,

... CHAIRMAN
... MEMBER(J)

JUDGMENT

AHMAD SULTAN TAREEN, CHAIRMAN:-The appellant named above has invoked the jurisdiction of this Tribunal through above titled appeal with the prayer as copied below:-

"On acceptance of the instant Service Appeal, the impugned orders/notifications No. 6633-39, Dated 13.06.2019 and office

order No. 7622-27, Dated 08.07.2019 issued by respondent No. 3 may kindly be set aside and respondents may graciously be directed to restore the order No. 938-43, dated 23.01.2019. Any other relief which this Honourable Tribunal deems fit and proper in the circumstances of the case be granted."

2. The facts precisely are that the appellant an incumbent of the post of SAT at GHS Bodla was transferred to GHS Kakul vide order bearing No. 938-43 dated 23.1.2019. The private respondent namely Syed Hidayatullah Shah filed a complaint against the transfer order of the appellant before the Provincial Ombudsman and acting upon direction/findings of the latter, the respondent No. 3 cancelled the transfer order of appellant vide order No. 6633-39 dated 13.06.2019; and vide order bearing endorsement No. 7622-27 dated 08.07.2019, the respondent No. 3 transferred Syed HidayatUllah Shah (respondent No. 4) against the post of SAT at GHS Kakul. The appellant feeling aggrieved, filed the departmental appeal but having no response till expiry of ninety days; he preferred the present service appeal with the prayer noted herein above.

3. The respondents were issued notices after admission of the appeal for regular hearing. Respondents No. 1 to 3 appeared before the Tribunal and filed joint parawise comments; while respondent No. 4 did not appear and the proceedings were adjourned from time to time for his attendance and reply. Finally on 11.10.2021, it was informed by the representative of the official respondents that respondent No. 4 on attaining the age of superannuation has

been retired from service and the copy of his retirement order as produced is available on record. Therefore, he having lost the stake remains no more necessary party for hearing in the matter of present appeal.

4. We have heard the arguments and perused the record.

5. The respondents in preliminary objections raised a plea that as per Section 10 of Khyber Pakhtunkhwa Civil Servant Act, 1973 every Government Servant is bound to serve anywhere within the District in the best interest of public service without raising any objection in this regard. They also affirm the correctness of para 4 of the memorandum of appeal and asserted that respondent No. 4 filed a complaint against the transfer order dated 13.01.2019 before the Provincial Ombudsman and on 27.05.2019 and the latter after hearing the case Provincial Ombudsman found that the transfer order of the appellant was issued on the basis of political pressure and recommended that his posting to GHS Kakul may be withdrawn and on merit the posting of both appellant and respondent No. 4 be decided by the Director, Directorate of E&SE. It was added that the transfer order of appellant was cancelled in pursuance to the findings of Provincial Ombudsman vide Endorsement No. 6633-39 dated 13.06.2019. The respondents annexed the copy of the complaint and findings of Ombudsman dated 27.05.2019 with their reply. According to the contents of complaint made to the Provincial Ombudsman, the complainant in nutshell submitted a case that he was serving in GHS Pawa purportedly with a tenure of about ten years. When a post of Senior AT had become vacant in GHS Kakul, he



applied for his transfer on the said post but ignoring his tenure of 10 years in far-flung area, one Ghulam Nabi SAT (present appellant) was adjusted/transferred on vacant post in GHS Kakul who was having lesser tenure in GHS Bodla than that of the complainant being 10 years in GHS Pawa. He further alleged that the transfer of Mr. Ghulam Nabi was the result of political influence.

6. The crux of the reply of the department as noted in findings of the Provincial Ombudsman reveals that Mr. Ghulam Nabi SAT GHS Bodla was transferred to GHS Kakul on 23.01.2019 having posted in longer distance as compared to the complainant. An objection of the department was also noted in the findings that the complainant had not represented against the said transfer order to Appellate Authority. Besides, the transfer of civil servant was a part and parcel of the service and he was bound to serve at any station in the district in terms of Section 10 of Khyber Pakhtunkhwa Civil Servants Act, 1973. After hearing the complainant and the department, the Provincial ombudsman found that Mr. Ghulam Nabi SAT (present appellant) having posted on the basis of political pressure, as such, his posting was clearly in violation of Apex Court decision made in various cases. It was recommended that his posting to GHS Kakul may be withdrawn and on merit the posting of both the teachers be decided by the Director, Directorate of Education after thorough investigation is made.

7. Before saying anything about the impugned order, it is deemed appropriate to trace the jurisdiction of the Provincial Ombudsman in relation to

the complaint filed by respondent No. 4 before the said forum; when the department had replied with a particular submission citing the specific provision of service law relating to terms and conditions of service. Section 9 of the Khyber Pakhtunkhwa Ombudsman Act, 2010 which provides for jurisdiction, functions and powers of the Provincial Ombudsman is reproduced herein below:-

"9. Jurisdiction, functions and powers of the Provincial Ombudsman. --- (1).

The Provincial Ombudsman may, on a complaint made by any aggrieved person, or on a reference by the Governor or the Government or the Provincial Assembly, or on a motion of the Supreme Court or the High Court made during the course of any proceedings before it, or of his own motion, undertake any investigation into any allegation of mal-administration on the part of any Agency or any of its officers or employees:

Provided that the Provincial Ombudsman shall not have any jurisdiction to investigate or inquire into any matter which-

(a) is subjudice before a court of competent jurisdiction or judicial tribunal on the date of the receipt of a complaint, reference or motion by him; or

(b) relates to the external affairs of Pakistan or the relations or the dealing of Pakistan with any foreign state or government; or

(c) relates to or is connected with the Defence of Pakistan or any part thereof, the military, naval and air forces of Pakistan, or the matters covered by the laws relating to those forces.

(2) Notwithstanding anything contained in sub-section (1), the Provincial Ombudsman shall not accept for investigation any complaint by or on behalf of a public servant or functionary concerning any

matter relating to the Agency in which he is, or has been working, in respect of any personal grievance relating to his service therein.

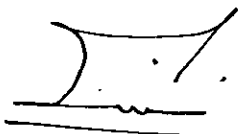
(3) [Deleted]

(4) [Deleted]"

8. It is crystal clear from plain reading of sub section (2) of Section 9 copied above that the jurisdiction of the Provincial Ombudsman has been ousted in the matter of any complaint by or on behalf of public servant or functionary concerning any matter relating to the Agency in which he is or has been working, in respect of any personal grievance relating to his service. So, it can be safely held that the Provincial Ombudsman entertained and maintained the complaint of respondent No. 4 beyond his jurisdiction. Thus, the findings of Provincial Ombudsman are *Coram-non-judice* due to lack of jurisdiction, which accordingly were of no legal effect or have binding force for compliance. It is noteworthy that when the department had raised objection as to jurisdiction of Provincial Ombudsman in the service matter, the Provincial Ombudsman was supposed to firstly determine his lawful authority for proceedings in the matter of complaint of respondent No. 4 but the objection was not properly treated by the Provincial Ombudsman. Needless to say that the impugned order as to cancellation of transfer of the appellant on the recommendations of the Provincial Ombudsman is illegal; and same is the case about the transfer order of respondent No. 4 to GHS Kakul; when the Provincial Ombudsman was lacking jurisdiction to make any investigation in a complaint relating to a service matter of a public servant.



9. We are mindful of the fact that respondent No. 4 has now retired and the post having become vacant due to his retirement in GHS Kakul has also been filled by some other teacher. If we direct for posting of the appellant at GHS Kakul on acceptance of appeal as prayed for, it will certainly result into disturbance of the incumbent of SAT post in GHS Kalul who is not party before us. The learned Addl. A.G on instructions from departmental representative has informed us that a post in GHS Buraj is vacant and transfer of the appellant is possible on the said post. The appellant has also shown his willingness on transfer against the said post in goodwill to avoid complications because of his transfer to GHS Kakul by transfer of the incumbent of the relevant post there. Therefore, in order to avoid multiplicity of proceedings we deem fit to direct the respondents to issue transfer order of the appellant and post him against the post of SAT GHS Buraj. The appeal stands disposed of accordingly with no order as to costs. File be consigned to the record room.


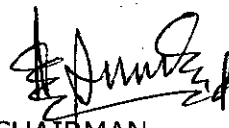


(SALAH-UD-DIN)
Member(J),
(Camp Court, Abbottabad)



(AHMAD SULTAN TAREEN)
Chairman
(Camp Court, Abbottabad)

ANNOUNCED
14.10.2021

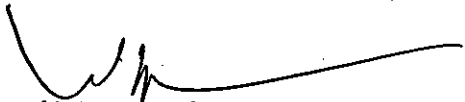
S.No.	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate and that of parties where necessary.
1	2	3
	14.10.2021	<p><u>Present.</u></p> <p>Sardar Muhammad Azeem, ... For appellant. Advocate.</p> <p>Mr. Usman Ghani, District Attorney alongwith ... For respondents. Sohail Ahmad Zaib, Litigation Officer.</p> <p><u>AHMAD SULTAN TAREEN, CHAIRMAN:-</u></p> <p>Vide our detailed judgment of today and placed on this file, this appeal stands disposed of with no order as to costs. File be consigned to the record room.</p> <p> (SALAH-UD-DIN) Member (J) Camp Court, A/Abad</p> <p> CHAIRMAN Camp Court, A/Abad</p> <p><u>ANNOUNCED</u> 14.10.2021</p>

16.03.2021

Junior to counsel for the appellant present.

Riaz Khan Paindakheil learned Asst. AG alongwith Sohail Ahmed Zeb Litigation Officer on behalf of respondent No. 1 to 3 present. None present on behalf of private respondent No.4

Reply/comments on behalf of respondent No. 1 to 3 already submitted. Notice be issued to private respondent No.4 for submission of reply/comments on 16/06/2021 before S.B at Camp Court Abbottabad.


(Atiq ur Rehman Wazir)
Member (E)
Camp Court, A/Abad

11.10.2021

Appellant alongwith Sardar Muhammad Azeem Advocate present and submitted fresh Wakalatnama which is placed on file. Mr. Muhammad Adeel Butt, Addl AG alongwith Sohail Ahmad Zaib, Litigation Officer for the official respondents present. Nemo for private respondent 4.

Written reply/comments of the respondents on submitted 20.12.2020 are not available on the file. Representative of the respondents provided copies of the same today which are placed on file. Representative of the respondents informed that on attaining the age of superannuation, respondent No. 4 has been retired from service. Anyhow respondent No. 4 is at liberty to furnish reply/comments on next date. Case to come up for arguments on 14.10.2021 for arguments before the D.B at camp court, Abbottabad.


Chairman
Camp Court, A/Abad

Due to covid ,19 case to come up for the same on / /
at camp court abbottabad.

Reader

Due to summer vacation case to come up for the same on 120
10 / 20 at camp court abbottabad.



Reader

20.10.2020

Representative of appellant on behalf of appellant
present.

Riaz Khan Paindakheil learned Assistant Advocate
General alongwith Saqib Shehzad Assistant for respondents
No.1 to 3 present. Nemo for respondent No.4.


Reply on behalf of respondents No.1 to 3 submitted.
Notice be issued to respondent No.4 for reply/comments, for
15.12.2020 before S.B at Camp Court, Abbottabad.


(Rozina,Rehman)
Member (J)
Camp Court, A/Abad

15.12.2020

Due to Covid-19, case is adjourned

to 16-03-2021 for the same as before


Reader

20.12.2019

Counsel for the appellant Ghulam Nabi present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant was serving in Education Department as Senior Arabic Teacher. It was further contended that the appellant was transferred from Government High School Bodla to Government High School Kakul against the vacant post vide order dated 23.01.2019. It was further contended that before completion of his normal tenure, the respondent-department has cancelled the order dated 23.01.2019 to the extent of only appellant on the ground that the findings of Provincial Ombudsman Khyber Pakhtunkhwa dated 27.05.2019 in P.O/complaint No. 0161/02/2019 received to the respondents and in pursuance of that order of the Provincial Ombudsman Khyber Pakhtunkhwa dated 27.05.2019 the transfer order of the appellant dated 23.01.2019 was cancelled vide order dated 13.06.2019. It was further contended that the respondent-department also transferred one Syed Hidayat Ullah Shah Senior Arabic Teacher to Government High School Kakul on the direction/order of Provincial Ombudsman Khyber Pakhtunkhwa dated 08.07.2019 on complaint. It was further contended that the appellant is going to be retired after one year and the appellant was transferred from Government High School Bodal to Government High School Kakul after completion of normal tenure. It was further contended that the Provincial Ombudsman Khyber Pakhtunkhwa has no authority to direct the respondent-department in respect of any terms and conditions of any civil servant, therefore, the impugned cancellation order dated 13.06.2019 is against the transfer posting policy and the same is liable to be set-aside.

The contention raised by learned counsel for the appellant needs consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notices be issued to the respondents for written reply/comments for 18.02.2020 before S.B at Camp Court Abbottabad. Learned counsel for the appellant also submitted application for suspension of operation of order dated 13.06.2019. Notice of the same be also issued to the respondents for the date fixed.

(Muhammad Amin Khan Kundi)
Member
Camp Court Abbottabad


Ad
Sec
Deposited
Process Fee

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1491/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	06/11/2019	<p>The appeal of Mr. Ghulam Nabi presented today by Mr. Muhammad Zareed Qureshi Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: center;">REGISTRAR</p> <p>This case is entrusted to touring S. Bench at A.Abad for preliminary hearing to be put up there on <u>20-12-2019</u></p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

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

Service Appeal No. 1492 /2019

Ghulam Nabi son of Qazi Ghulam Mustafa, resident of Upper Salhad Abbottabad, presently serving as SAT at GHS Bodla.

....APPELLANT

VERSUS

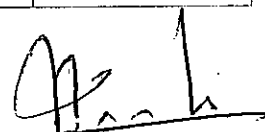
Govt. of Khyber Pakhtunkhwa, through Secretary Elementary & Secondary Education, Peshawar & others.

....RESPONDENTS

SERVICE APPEAL

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S.#	Description	Page No.	Annexure
1.	Service appeal along with affidavit	1 to 10	
2.	Application for suspension	11 to 12	
3.	Copy of appointment order	13	"A"
4.	Copies of relevant pages of service book	14 to 20	"B"
5.	Copy of order dated 23/01/2019	21	"C"
6.	Copy of order dated 13/06/2019	22	"D"
7.	Copy of transfer order	23	"E"
8.	Copy of departmental appeal	24	"F"
9.	Wakalatnama	25	



....APPELLANT

Dated: 5/11 /2019

Through

(Muhammad Zareed Qureshi)
Advocate High Court, Abbottabad

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

Service Appeal No. 1492/2019

Ghulam Nabi son of Qazi Ghulam Mustafa, resident of Upper Salhad
Abbottabad, presently serving as SAT at GHS Bodla.

....APPELLANT

**Khyber Pakhtunkhwa
Service Tribunal**

VERSUS

Diary No. 1568

Dated 06-11-2019

1. Govt. of Khyber Pakhtunkhwa, through Secretary Elementary & Secondary Education, Peshawar.
2. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. District Education Officer (Male), Abbottabad.
4. Syed Hadayat Ullah Shah son of Ahmed Jee, resident of Mirpur Abbottabad Presently serving as SAT GHS Kakul, A. Abad.

....RESPONDENTS

Filed to-day

Registrar

**SERVICE APPEAL UNDER SECTION 4 OF
KPK SERVICE TRIBUNAL ACT, 1974,
SEEKING DECLARATION/ DIRECTION TO
THE EFFECT THAT OFFICE ORDER NO.
6633-39 DATED 13/06/2019 ISSUED BY
RESPONDENT NO. 3 WHEREBY THE
TRANSFER ORDER OF APPELLANT NO. 938-**

43 DATED 23/01/2019 WAS CANCELLED AND OFFICE ORDER NO. 7622-27 DATED 08/07/2019 WHEREBY RESPONDENT NO. 4 WAS TRANSFERRED TO GHS KAKUL ARE ILLEGAL, UNLAWFUL, WITHOUT LAWFUL AUTHORITY, ARBITRARY, PERVERSE, DISCRIMINATORY, MALAFIDE AND CONSEQUENTLY OF NO LEGAL EFFECT UPON THE RIGHTS OF APPELLANT AND BOTH THE ORDERS NO. 6633-39 DATED 13/06/2019 AND 7622-27 DATED 08/07/2019 ARE LIABLE TO BE SET ASIDE CANCELLED.

PRAYER: ON ACCEPTANCE OF THE INSTANT SERVICE APPEAL, THE IMPUGNED ORDERS/ NOTIFICATIONS NO. 6633-39 DATED 13/06/2019 AND OFFICE ORDER NO. 7622-27 DATED 08/07/2019 ISSUED BY RESPONDENT NO. 3 MAY KINDLY BE SET ASIDE AND RESPONDENTS MAY GRACIOUSLY BE DIRECTED TO RESTORE THE ORDER NO. 938-43 DATED 23/01/2019. ANY OTHER RELIEF WHICH THIS

HONOURABLE TRIBUNAL DEEMS FIT AND
PROPER IN THE CIRCUMSTANCES OF THE
CASE BE GRANTED.

Respectfully Sheweth: -

The facts giving rise to the instant appeal are
arrayed as under;-

1. That the appellant is serving in education department since 1983 and presently appellant is posted as SAT in Govt. High School Bodla. Copy of appointment order is attached as Annexure "A".
2. That the appellant served at far flung areas of province throughout his service career. Copies of relevant pages of service book are attached as Annexure "B".
3. That on 10/08/2017 appellant was transferred to GHS Bodla and after completion of tenure, the appellant was transferred to GHS Kakul vide order No.

938-43 dated 23/01/2019. Copy of order dated 23/01/2019 is attached as Annexure "C".

4. That respondent No. 4 filed a complaint against the transfer order of appellant before the office of provincial Ombudsman and upon the directions/ findings of provincial Ombudsman respondent No. 3 cancelled the transfer order of appellant vide order No. 6633-39 dated 13/06/2019. Copy of order dated 13/06/2019 is attached as Annexure "D".
5. That vide order endorsement No. 7622-27 dated 08/01/2019 respondent No. 3 transferred Syed Hidayat Ullah Shah (respondent No. 4) against the post of S.A.T GHS Kakul. Copy of transfer order is attached as Annexure "E".
6. That the appellant filed departmental appeal against the impugned transfer orders No. 6633-39 dated 13/06/2019 and order No. 7622-27 dated 08/01/2019 which is still

pending before respondent No. 2 and the period of three months to decide the departmental appeal had also elapsed. Copy of departmental appeal is annexed as Annexure "F".

7. That feeling aggrieved the appellant assails the impugned orders dated 13/06/2019 and 18/01/2019 being illegal, unlawful, against law, and are liable to be set aside, inter-alia amongst many other grounds.

GROUND:-

- (a) That the impugned orders dated 13/02/2019 and 08/01/2019 has been issued by the respondent No. 3 are illegal, unlawful, without lawful authority, arbitrary, perverse, discriminatory, malafide and consequently of no legal effects upon the rights of appellant.
- (b) That the appellant has served the department for long 36 years with the

best of his ability and for the entire satisfaction of his superiors at far flung areas of District.

- (c) That respondent No. 3 illegally and without lawful authority cancelled the transfer order of appellant and thereafter passed the order No. 7622-27 dated 08/01/2019 whereby respondent No. 4 was transferred to GHS Bodla.
- (d) That the impugned orders passed by respondent No. 3 on the basis of directions of provincial Ombudsman are totally against the law, rules and both the orders are void ab-initio hence are not tenable in the eyes of law.
- (e) That according to law provincial Ombudsman is not authorities to pass any kind of directions in respect of transfer of Govt. Servant, hence the

orders passed by respondent No. 3 are illegal and liable to be set aside.

- (f) That the said order is neither in exigency nor in public interest it is premature and totally on political whim.
- (g) That the said orders are totally against the posing transferring policy and judgment of Apex Court in Anti Turab case.
- (h) That the respondents have not treated the appellant in accordance with law, rules and policy on the subject and acted in violation of Article-4 of the Constitution of Islamic Republic of Pakistan 1973 and unlawfully transfer the appellant which is unjust, unfair, illegal, hence not sustainable in the eye of law.
- (i) That under Section 24-A of General Clauses Act, 1897, where any

authority is vested with the power to make any order, such power shall be exercised reasonably, fairly, justly and for the advancement of the purpose of the enactment under which the power is conferred but in the case in hand the power was not exercised as such, rather, the same was misused arbitrary to the detriment of appellant without any rhyme or reason, therefore, the impugned act of respondents is not legally maintainable.

- (j) That the impugned orders if seen from any angle, both factually and legally are not maintainable, hence, liable to be set aside.

It is, therefore, humbly prayed that on acceptance of the instant service appeal, the impugned orders/ notifications No. 6633-39 dated 13/06/2019 and office order No. 7622-27 dated 08/07/2019 issued by respondent No. 3 may kindly

be set aside and respondents may graciously be directed to restore the order No. 938-43 dated 23/01/2019. Any other relief which this Honourable Tribunal deems fit and proper in the circumstances of the case be granted.

[Handwritten Signature]

...APPELLANT

Dated: 5/11/2019

Through

[Handwritten Signature]

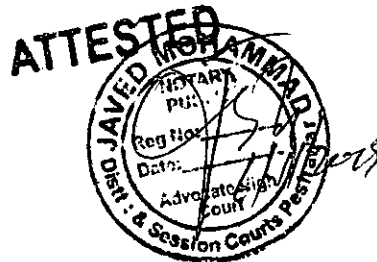
(Muhammad Zareed Qureshi)
Advocate High Court, Abbottabad

VERIFICATION:-

Verified on oath that the contents of forgoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.

[Handwritten Signature]

...APPELLANT



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

Service Appeal No. _____/2019

Ghulam Nabi son of Qazi Ghulam Mustafa, resident of Upper Salhad Abbottabad, presently serving as SAT at GHS Bodla.

....APPELLANT

VERSUS

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

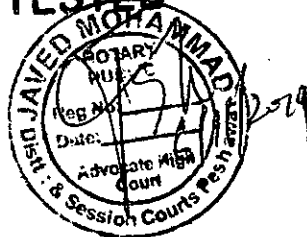
....RESPONDENTS

SERVICE APPEAL

AFFIDAVIT

I, Ghulam Nabi son of Qazi Ghulam Mustafa, resident of Upper Salhad Abbottabad, presently serving as SAT at GHS Bodla, do hereby solemnly affirm and declare that the contents of forgoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.

ATTESTED



[Signature]
DEPONENT

H

BEFORE THE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR

Service Appeal No. _____/2019

Ghulam Nabi son of Qazi Ghulam Mustafa, resident of Upper Salhad Abbottabad, presently serving as SAT at GHS Bodla.

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SERVICE APPEAL

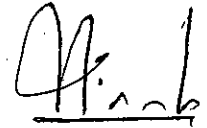
APPLICATION FOR SUSPENSION OF OPERATION OF IMPUGNED ORDER NO. 6633-39 DATED 13/06/2019 ISSUED BY RESPONDENT NO. 3 WHEREBY THE TRANSFER ORDER OF APPELLANT NO. 938-43 DATED 23/01/2019 WAS CANCELLED AND OFFICE ORDER NO. 7622-27 DATED 08/07/2019 WHEREBY RESPONDENT NO. 4 WAS TRANSFERRED TO GHS KAKUL, TILL FINAL DECISION OF MAIN APPEAL.

Respectfully Sheweth;-

1. That service appeal being filed before this Honourable Service Tribunal and the contents of instant application may be considered part and parcel of the main appeal.

2. That the appellant has brought good prima facie case and balance of convenience also lies in the favour of the appellant.
3. That valuable rights of the appellant are involved.

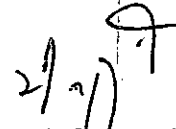
In view of the above it is prayed that the orders No. 6633-39 dated 13/06/2019 & 7622-27 dated 08/07/2019 be suspended and order No. 938-43 dated 23/01/2019 be restored.



...APPELLANT

Dated: _____/2019

Through

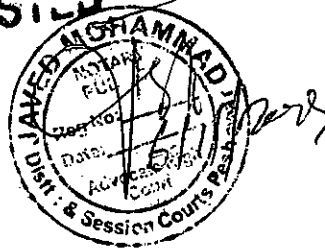

(Muhammad Zareed Qureshi)
Advocate High Court, Abbottabad

AFFIDAVIT

I, Ghulam Nabi son of Qazi Ghulam Mustafa, resident of Upper Salhad Abbottabad, presently serving as SAT at GHS Bodla, do hereby solemnly affirm and declare that the contents of foregoing application are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Tribunal.


DEPONENT

ATTESTED



O/A 13

ANNEXURE "A"

OFFICE OF THE DISTRICT EDUCATION OFFICER(MALE) ABBOTTABAD.

Office Ord.No. 212 / E-3/ AE-III/TTs/Carries.

Dated Abbottabad the 23.9.1983

Appointments/Adjustment.

Appointments/Adjustments of the following Theology/Carries is hereby ordered in the interest of public service with effect from the date of their taking over charge. The newly appointed candidates will get pay in NPS.6 or equal to minimum of the Basic pay Scale which they are entitled as per rules, plus usual allowances as admissible.

Alotted

*Muhammad Zareed Pureshi
Adv. of Gen. Secy L.B
Abbottabad
Vice Sr.No.5*

Sr. No.	Name and Designation	From	To	
1.	S. Fateh Ali Shah TT	GMS Alloli	GHS. T. T. Ship	
2.	Abdur Rashid TT	GHS TT. Ship	GHS Julian	
3.	Mohammad Rafique TT	GMS Julian	GMS Alloli (Allot)	Vice S.No.1
4.	Mohammad Saleh TT	GMS Bail	GMS Khalabat Sector -3	Against newly Created Post.
5.	Hukam Dad TT	GMS Halli	GMS Kiara	.....dc....
6.	Qari Mohd Suleman S/O Khani Zaman T & T Colony Haripur.	Candidate	GMS Bail	V. S. No. 4
7.	Ghulam Nabi S/O Ghulam Mustafa R/O Nowshera Havelian.	.....do....	GMS Halli	V. S. No. 5
8.	Molvi Sher Mohd S/O Mohd Ismail R/O Lower Malikpura Abbottabad.	.....do....	GMS Shaikhul Bandi	Against Newly Addl; Created TT Post.
9.	Dure-L-Aman S/O Ali Zaman R/O Bogran A. Abad.	.....do....	GMS Sarhan	Against Vacant TT Post.
10.	Qari Mohd Rustom S/O Sher Zaman Imam Masjid Chamiali A. Abad	.....do.....	GMS Chamiali	Against Vacant Qari Post.
11.	Shafiqur Rehman S/O Rehmatullah R/O Khuliala A. Abad	.....do....	GMS K Lahala	Against newly Created TT Post.
12.	Molvi Abdur Rashid S/O Abdul Ghafoor R/O Lanera A. Abad.	.....do....	GMS Galibanian	.....do.....
13.	Molvi Saeedul Haq S/O Abdur Rehman R/O Illqa Amb Haripur	.....do....	GMS Salamkhand	Against Vacant TT Post.
14.	Abdul Qadir TT	GHS Satora	GHS Kuthwal	Vice Sr. No. 15
15.	Mohd Ilyas TT	GHS Kuthwal	GHS Chamhatti	V. Sr. No. 16
16.	Abdul Sabooh TT	GHS Chamhatti	GHS Satora	V. Sr. No. 14
17.	Hifzur Rehman TT	GHS Jhangra	GMS Maira Rehmat Khan	V. Sr. No. 18
18.	Abdul Aziz TT	GMS Maira Rehmat Khan	GMS Jhangra	V. S. No. 17
19.	Ghulam Sarwar TT	GMS Hedora Bandi	GHS Bagnotar	V. Sr. No. 20
20.	Abdul Lateef TT	GHS Bagnotar	GMS Gandian Haripur	Against Newly Created

21. Qari Mohd Miskeen S/O Kala Khan R/O Haveliah	Candidate	GMS Chamhad	Against Newly Created Post.TT
22. Qari Abdur Rehman Shah S/O Nohabat Shah R/O Channarkote	...do.....	GMS Bandi Mathrach	Against Addl;TT Newly Created Post.
23. Imdad Hussain Qari	GHS Bhera Haripur	GHS No.3 A.Abad	Against newly Created Qari Post.

Note:- 1. Order for Exchange of posts between M/S Abdul Aziz TT GMS Maira Rehmat Khan and Sultan Mohd TT GMS Chandu Maira issued via this office order No. 209 under Endst. No. 39295-98 dated 20.9.1983 is may be treated as cancelled.

- Conditions
1. Charge reports should be submitted to all concerned.
 2. No TA/DA/TG is allowed to any one.
 3. No Joning Time is allowed to them.
 4. Appointments is purely Temporary and subject to the termination at any time without notice and assigning any reasons.
 5. The Newly appointed candidates are directed to produced their Age and Health certificate from Medical Superintendent Abbottabad.
 6. In case the candidate failed to take over charge with in 15 days from date of issue the appointment order will stand cancelled automatically.
 7. The age should not exceed 30 years or below 18 years at the time of taking over charge.
 8. Original Sannads/Faragh/Qirrat should be checked at the time of Preparation of their Service Books. Otherwise may not be considered.
 9. Appointments /Adjustments made under all services conditions laid-down by the Government.

Sd/- x x x x x
(SHAHJAHAN KHAN)
DISTRICT EDUCATION OFFICER(MALE)
ABBOTTABAD.

Endst. No. 40424-459 / E-3/AE-III/TTs Dated A.Abad the 28.9.1983.

Copy of the above is forwarded for information and necessary action to the-

1. Sub; Divisional Education Officer (M) Abbottabad.
2. Sub; Divisional Education Officer (M) Haripur.
3. All Concerned Headmaster of High School in Abbottabad Distt;
4. All Concerned Headmasters of Middle Schools Abbottabad Distt;
5. All Concerned Candidates.

315-14-

Abdur Rashid
(ABDUR RASHID)
DEPUTY DISTRICT EDUCATION OFFICER (M)
FOR DISTT: EDUCATION OFFICER (M) A.ABAD.

Note:—The entries in this page should be renewed or re-attested at least every five years and the signature in lines 9 and 10 should be dated.

1. Name *Qari Garib Nabi*

2. Race *Muslim*

3. Residence *village: .. Nowshera, Fawelliam*

4. Father's name and residence .. *Ghulam Mustafa*

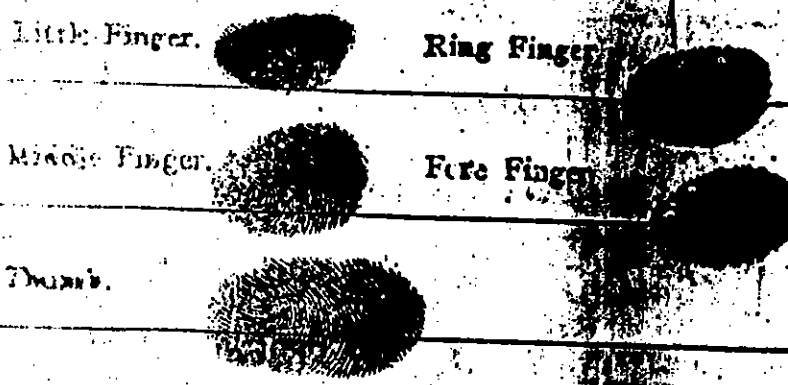
Muhammad Asad
M.A. (Science, L.T.)
Advocate High Court
Abbottabad

5. Date of birth by Christian era as (*3/5/1962*) *Third May, N.H. Sixtytwo.*

6. Exact height by measurement .. *5-5*

7. Personal marks for identification.. *A cut mark on forehead*

8. Left hand thumb and Finger impression of (non-gezzited) officer



9. Signature of Government servant ..

10. Signature and designation of the Head of the Office, or other Attesting Officer.

Qari Nabi

Asad
 Sub Divisional Education Officer
 (Male) Haripur Sub Division

Prepared by

1962

Haripur

1 Name of post	2 Whether substan- tive or officiating and whether permanent or temporary	3 If officiating, state (i) substantive appointment or (ii) whether service counts for pension under Art. 371 C. S. R.	4 Pay in substantive post	5 Additional Pay for officiating	6 Other emolument falling under the term "Pay"	7 Date of appointment	8 Signature of Government servant
Theology Tr / MS. Halli	Per / off	B.P.S. No-6	540 - 20 - 940			1-10-83 FN	<i>Amrabi</i>
- Do -	- Do -		540 - PM		✓	1-12-84	<i>Amrabi</i>
- Do -	- Do -	B-7 (560-23-1020)	560/-			1-10-83	<i>Amrabi</i>
- Do -	- Do -		583/-	Muhammad Qureshi MA, B.A. Science, LL.B Advocate High Court Abbottabad	✓	1-12-84	<i>Amrabi</i>
Theor Teacher	- Do -		606/-		✓	1-12-85	<i>Amrabi</i>
G.H.S Takia Sheikhia - do.	- do -		606/-			9-9-86	<i>Amrabi</i>
- do -	- do -		629/-		/	1-12-86	<i>Amrabi</i>
G.H.S Ziarat Masoom	- do -		629/-	✓		1-5-1987	<i>Amrabi</i>
- Do -	- do -	BPS No-7 = 750-31-1320	Rs. 843/-	PM	✓	7/87	<i>Amrabi</i>
GMS	- do -		843/-			4/87	<i>Amrabi</i>
Dobathar	- do -		874/-			12/87	<i>Amrabi</i>
- Do - Principal Govt. High School Sherwan Abbottabad	- do -		905/-			12/88	<i>Amrabi</i>

16

1	2	3	4	5	6	7	8
Name of post	Whether substantive or officiating and whether permanent or temporary	3d alternative (a), (b) appointment or service counts under Act 311 G.S.R.	See it select (view) pur	Additional time for officiating	Other emoluments falling under the term "pay"	Date of appointment	Signature
T.T. Post G.H.S.S. Nasir Sheikh	Off		(Rs. 1875/-)	17 58/2		1.12.93	Frank M.A. Post Advocate Abdullah
"	"	BPS-7-Rs. 1480	✓ Rs. 2533/-	pm		1.6.94	Frank
"	"		2533/Rs. 2614/-	pm		1.12.94	Frank
"	"		2533/Rs. 2695/-	pm		1.12.95	Frank
Frank Nasir's Mother	"	BAS-8	R-1550	-88-2860		01-03-98	
G.H.S.S. Nasir's Mother	Off	B-5	2772	pm	2614/-	01-12-96	Frank
Tech & Makor Srinis	Off	B-1	2772	pm	2614/-	01-12-96	Frank
A.T. MMS, Malakote		BPS-8	R. Rs. 1605	-97-3060		2.2.97	Frank
Promoted to A.T.		BPS-9	R. Rs. 1605	-97-3060		2.2.97	Frank
A.T. Rms Malakote	Off	R ₃	2864	pm		2.97	Frank
A.T. Rms Malakote	Off	R ₃	2963	pm		1.12.97	Frank
A.T. Rms Malakote	Off	R ₃	3060	pm		1.12.98	Frank
A.T. G.H.S. Sunday K. K. K. K.	Off	R ₃	3060	pm		3.4.2000 (est)	Frank

M. A. Post
 Advocate
 Abdulla
 M. A. Post
 Advocate
 Abdulla
 M. A. Post
 Advocate
 Abdulla

Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating state (i) substantive appointment, or (ii) whether service counts for pension under Art. 3VI of B. R.	Pay to be received	Amount payable for gratuity	Date of retirement	Date of appointment	Signature of Officer
Miss Khanam (Ajub)	Temp		3060/-			01/2/2001	Attested Muhammad Zameer M.A. Pol Science Advocate High Abbottabad
BPS-9 (2410-145-6760)							
Miss Khanam (Ajub)	Temp		Rs. 4585/-			12/01	A. h
Miss Khanam (Ajub)	Temp		Rs. 4585/-			08/2/2001	A. h

② FA

Office of The Accountant General,
N.W.F.P. Peshawar

Pay fixed in the revised basic pay scales of 36-1480-81-2695 (7) a. Rs 2371/- P.M.V.F.F. 1-6-1994 with next increment on 12-1994

Accounts Officer
Pay Fixation Party N.W.F.P. Peshawar

Note:-

The 9 payment made may be received
 A. 6/1/1993 to 5794 Rs. 360/-
 B. 8/1/1994 to 9195 Rs. 1296/-
 C. 1/6/1995 to 1496 Rs. 2269/-
 D. 15/1/1996 to 9197 Rs. 316/-

Total Rs. 4240/- + 584/-

A. h
Accounts Officer

ENTRY REVISED

(Awarded grade pay in BPS K1 w.e.f 02-02-1997)

PBS/BPS 2065 161-4480

2870/-

22/97

A. h

Signature of Secy

[Signature]

2/10/97

1 Name of post	2 Whether substan- tive or officiating and whether permanent or temporary	3 If officiating state (i) substantive appointment or (ii) whether service counts for pension under Art. 371 C. S. R.	4 Pay in substantive post	5 Additional Pay for officiating	6 Other emolument falling under the term "Pay"	7 Date of appointment	8 Signature of Government servant
A.T. G.H.S Harro Azizabad			Rs 5740/-	P.M.		12/2002	<i>[Signature]</i>
— u —			Rs 5980/-	P.M.		10/03	<i>[Signature]</i>
— u —			Rs 6220/-	P.M.		12/04	
(Revised Basic Pay Scale 2005-BPS-14-3565-275 11510)							
A.T. G.H.S Harro Azizabad	Temp:		Rs 7140/-	P.M.			Muhammad Zareed Qureshi M.A. Pol. Science, LL.B 2996 Gate High Court Abbottabad <i>[Signature]</i>
— u —	— u —		Rs 7415/-	P.M.		12/2005	

1	2	3	4	5	6	7
Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating state (i) substantive appointment, or (ii) whether service counts for pension under Art. 371 C. S. R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term "Pay"	Date of appointment
BPs-15 R 4350-350-14350 (12007)						
LMS/Armo Muzabed	Temp			Rs. 775/- pm		12/05
-do-	-do-			B-15 (4350-350-14350)		12/2007
AT SMS	-do-			Rs. 890/- pm		12/2007
Simma Koraga	-do-			Rs. 890/- pm		12/2007
-do-	-do-			Rs. 925/- pm		12/2007

Attested
 Muhammad Zareed Qureshi
 M.A. Pol. Science, LL.B
 Advocate High Court
 Abbotabad

0

1	2	3	4	5	6	7	8
Name of post	Whether substantive or officiating and whether permanent or temporary	If officiating state: (i) substantive appointment or (ii) whether service counts for pension under Art. 371 C. S. R.	Pay in substantive post	Additional Pay for officiating	Other emolument falling under the term "Pay"	Date of appointment	Signature of Government servant
<i>BPS-15 Rs 8500-700-29500.</i>							
AT GMS Bandi Phullan	<i>Ref/DO.</i>		Rs 21100/-pm			DISTRICT OF ELEM. & AG. JAMSHEDPUR	
<i>-do-</i>	<i>-do-</i>		Rs 21800/-pm			12 2012	
CATS GHS, Shyam (M.F.D)	<i>DO-</i>		R, 21800/-pm			DISTRICT OF ELEM. & AG. 7-13	

Attested

Muhammad Zareed Qureshi
M.A. Pol Science, LL.B.
Advocate High Court
Abba Road

Attested
 21/1/19
 Muhammad Zareed Qureshi
 Advocate High Court
 Abbottabad

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) ABBOTTABAD

TRANSFER.

The following Teachers are hereby transferred on their own pay and BPS as recorded against their names in the interest of public service from the date of taking over charge.

S#	Name and Designation	Present School	Place of Posting	Remarks
1	Ghulam Nabi SAT	GHS Bodla	GHS Kakul	Against vacant post.
2	Ijaz Ali Qureshi SAT	GHS Makol Payeen	GHS Bodla	Vice serial#01

5. Charge Report should be submitted to all concerned.
6. No TADA and is allowed.

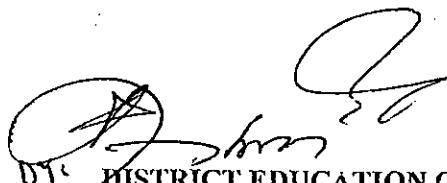
sd/ —
 DISTRICT EDUCATION OFFICER (M)
 ABBOTTABAD

Encl. No. 938-43 / EB-II/SAT

Dated Abbottabad the 23/1/2019.

Copy of the above is forwarded to:

- 1- Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar
- 2- District Monitoring Officer (IMU) Abbottabad.
- 3- District Comptroller of Accounts Abbottabad.
- 4- Principal/Head Master of the concerned School Abbottabad.
- 5- AP EMIS Local Office.
- 6- Teachers Concerned.


 DT DISTRICT EDUCATION OFFICER (M)
 ABBOTTABAD

OFFICE OF THE DISTRICT EDUCATION OFFICER MALE ABBOTTABAD.CANCELLATION OF TRANSFER ORDER.

In pursuance to the findings of Provincial Ombudsman Khyber Pakhtunkhwa dated 27-05-2019 in P.O/Complaint No. 0161/02/2019 received vide Memo: No. 5442 dated 28-05-2019, this office transfer order issued under Enst: No. 938-43 dated 23-01-2019 standing at S.No. 1 in respect of Mr. Ghulam Nabi SAT from GHS Bodla to GHS Kakul is hereby cancelled in the interest of public service with immediate effect.

Note:

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

sd/
DISTRICT EDUCATION OFFICER (M)
ABBOTTABAD.

Endst: No. *6633-39* /EB-II/Prov: Ombudsman Dated A. Abad the *13/6* 2019

Copy forwarded for information to the:-

1. Mr. Muntaz Ahmed Consultant -II Provincial Ombudsman Khyber Pakhtunkhwa, Overseas Pakistanis Foundation Building, Phase V, Hayat Abad Peshawar w/r to findings dated 27-05-2019 in P.O/Complaint No. 0161/02/2019 received vide Memo: No. 5442 dated 28-05-2019,
2. Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar
3. Principal GHS Kakul and Bodla Abbottabad.
4. Distinct Comptroller of Accounts Abbottabad.
5. District Monitoring Office (IMU) Abbottabad
6. Syed Hidayat Ullah Shah SAT GHS Pawa Abbottabad.
7. Mr. Ghulam Nabi SAT GHS Kakul Abbottabad.

[Signature]
DISTRICT EDUCATION OFFICER (M)
ABBOTTABAD

Attested
Muhammad Zareed Qureshi
M.A Pol Science, LL-B
Advocate High Court
Abbottabad

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OFFICE OF THE DISTRICT EDUCATION OFFICER MALE ABBOTTABAD.**TRANSFER ORDER.**

In pursuance to the findings of Provincial Ombudsman Khyber Pakhtunkhwa dated 27-05-2019 in P.O/Complaint No. 0161/02/2019 received vide Memo: No. 5442 dated 28-05-2019 and further Memo: No. 16158 dated 24-06-2019 Mr. Syed Hidayat Ullah Shah SAT GHS Pawa is hereby transferred to GHS Kakul against the vacant post of SAT in the interest of public Services with immediate effect.

Note:

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

sd/-
DISTRICT EDUCATION OFFICER
(M) ABBOTTABAD.

90 days
Muhammad Azeed Qureshi
M.A. Pol. Science, LL.B
Advocate High Court
Abbottabad

Endst: No. 7622-27 /EB-II/Prov: Ombudsman

Dated A.Abad the 8/7 /2019

Copy forwarded for information to the: -

1. Assistant Director (Implementation) Provincial Ombudsman Secretariate, Khyber Pakhtunkhwa with reference to his No. P.O/Complaint/0161/ 02/ 2019/16158 dated 24-06-2019.
2. Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
3. Principal GHS Kakul and Pawa District Abbottabad for compliance.
4. Distinct Comptroller of Accounts Abbottabad.
5. District Monitoring Office (IMU) Abbottabad
6. Syed Hidayat Ullah Shah SAT GHS Pawa Abbottabad.

DISTRICT EDUCATION OFFICER
(M) ABBOTTABAD

بخدمت جناب ڈائریکٹر ایلیمنٹری اینڈ سیکنڈری ایجوکیشن خیبر پختونخواہ پشاور
 عنوان۔ اپیل برخلاف ٹرانسفر آرڈر نمبر 7-8-27-2019-27-622-7 سید برایت اللہ شاہ
 GHS SAT پاواسے GHS کالوں جاری کردہ DE.O ایبٹ آباد
 اینڈ آرڈر 6633-39 Dated 13-6-2019 عندهی GHS SAT لودل

جناب عالی!

کالوں تعینات ہے
 23-1-2019 سے GHS کالوں تعینات ہے
 مذکورہ معلم نے مجھے GHS لودل تبدیل کروا دیا ہے۔

Muhammad Zahid Qureshi
 M.A. Education
 Advocate High Court
 Abbottabad

مذکورہ معلم 21 سال سے شہر کے قریب ترین سکولوں میں تعینات ہے
 GHS کالوں GHS سٹیڈ آباد ایبٹ آباد
 جبکہ سائل کی 35 سالہ سروس کا زیادہ حصہ دور دراز کے پہاڑی علاقوں
 میں گزارا ہے۔ مثلاً GHS بلی ضلع جھیرا پور GHS سماں کٹر اگا لورہ
 GHS ملکوٹ (مری) GHS خالصیہ والیہ باالقبال بہرہ پور (مری)
 GHS زیارت محصوم (نزد مری) GHS سمندر کٹہہ گلپات سٹیٹ ہائی وے وغیرہ
 سائل ریٹائرمنٹ کے قریب ہے۔

لہذا جناب سے استدعا ہے سید برایت اللہ شاہ SAT
 کا آرڈر نمبر 7/8/27-2019-27-622-7 منسوخ کیا جائے۔
 اور سائل کا آرڈر 6633-39 Dated 13-6-2019 منسوخ کیا جائے۔

الحاجرات
 عندهی SAT ورنٹ ہائی سکول لودل ایبٹ آباد
 11-7-2019
 المصطفیٰ
 H. H.

وکالت نامہ

کورٹ فیس

بعدالت سرسری سٹیٹ بینک لیمیٹڈ

عنوان: غلام نبی بیٹا نور محمد

منجانب: اسٹریٹ

نوعیت مقدمہ: سروس اسٹریٹ
باعث تحریر نامہمقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کارروائی متعلقہ آں مقام
اسٹریٹ انادیبل ٹرنسپیریڈنٹس لیمیٹڈ

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کمال اختیار ہوگا نیز وکیل صاحب موصوف کو کرنے راضی نامہ و تقرر ٹائٹ و فیصلہ برحسب دہینے اقبال دعویٰ اور بصورت دیگر ڈگری کرانے اجراء وصولی چیک روپیہ و مرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکور کی کل یا کسی جزوی کارروائی کے لئے کسی اور وکیل یا محکمہ صاحب قانونی کو اپنے ہمراہ اپنی بجائے تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا ساختہ پر داخستہ مجھ کو منظور قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے مستحق وکیل صاحب ہوں گے۔ نیز بتایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر محکمہ مقرر کردہ میں کوئی جزو بتایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست برآمد استجارت نالش بصیغہ مفلسی کے دائرہ کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند رہے۔

الرقوم 20/11/2008

مقام: Accepted
29/11/08

السید

السید

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR AT CAMP COURT ABBOTTABAD

Appeal No. 1492/2019

Ghulam Nabi.....Appellant

VERSUS

Govt. Of KPK & Others.....Respondents

JOINT PARA WISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 TO 3.

INDEX

Sr.No	Description	Page Nos	Annexures
1	Comments alongwith affidavit	01 to 04	
2	Copy of complaint	05	"A"
3	Copy of findings of Provincial Ombudsman dated 27/05/2019	06 to 08	"B"
4	Copy of cancellation order dated 13/06/2019	09	"C"
5	Copy of transfer order dated 08/07/2019	10	"D"

Dated: 22/01/2019

District Education Officer (M)
Abbottabad
(Respondent No. 3)

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR AT CAMP COURT ABBOTTABAD

Appeal No. 1492/2019

Ghulam Nabi.....Appellant

VERSUS

Govt. Of KPK & Others.....Respondents

SERVICE APPEAL

JOINT PARA WISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 TO 3.

Respectfully Sheweth:-

Joint Para Wise Comments on behalf of respondents are submitted as under:-

PRELIMINARY OBJECTIONS:-

1. That the appellant has no cause of action to file the instant appeal.
2. That the appellant has no locus standi.
3. That the appellant did not come to this Honorable Tribunal with clean hands.
4. That the appellant concealed and distorted the material facts from this Honorable Tribunal.
5. That the present appeal has been filed just to pressurize and blackmail the respondents.
6. That as per Section 10 of Civil Servant Act 1973, every Government Servant is bound to serve anywhere within the District in the best interest of public service without raising any objection in this regard.
7. That the instant appeal is not maintainable in its present form.
8. That the instant service appeal is hopelessly time barred hence, liable to be dismissed.
9. That all the proceedings have been done by the competent authority as per Rule & Law hence, the appeal is liable to be dismissed without any further proceeding.

Factual Objections:-

1. That Para No. 1, of the instant appeal relates to service record of the appellant.
2. That Para No. 2, of the instant appeal relates to record.

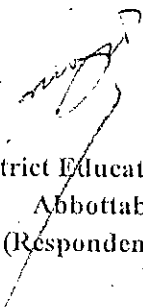
3. That Para No. 3, of the instant appeal as composed is incorrect hence, denied as appellant was promoted as SAT and posted as SAT at GHS Bodla. Furthermore, appellant was transferred from GHS Bodla to GHS Kakul vide order dated 23/01/2019 without completion of normal tenure.
4. That Para No. 4, of the instant appeal is correct as respondent No. 4 filed the complaint against the transfer order dated 23/01/2019 before the provincial ombudsman and on dated 27/05/2019 after hearing the case provincial ombudsman gave its findings that the transfer order of appellant was issued on the basis of political pressure and recommended that his posting to GHS Kakul may be withdrawn and on merit the posting of both appellant and respondent No. 4 be decided by the Director Directorate of E&SE. Moreover, the transfer order of appellant was cancelled in pursuance to the findings of provincial ombudsman KP vide Endst No. 6633-39 dated 13/06/2019. Copy of complaint, findings dated 27/05/2019 and cancellation order dated 13/06/2019 are annexed as Annexure-"A, B and C" respectively.
5. In reply to Para No. 5, it is submitted that transfer order of respondent No. 4 was issued vide Endst No. 7622-27 dated 08/07/2019 in pursuance to the findings of the provincial ombudsman. Copy of transfer order dated 08/07/2019 is annexed as Annexure-"D".
6. That Para No. 6, of the instant appeal relates to record.
7. In reply to No. 7, of the instant appeal it is submitted that cancellation order dated 13/06/2019 and transfer order dated 08/07/2019 was issued in pursuance to the findings of the provincial ombudsman.

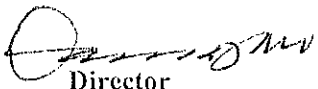
GROUNDS:-

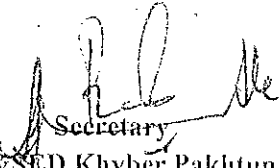
- a. That ground a, as composed is incorrect hence, denied as comprehensive reply has already been given in Para Nos. 4 and 7 of the Factual Objections.
- b. That ground b, is subject to cogent proof.
- c. That ground c, as composed is incorrect hence, denied. As replied above.
- d. That the ground d, as composed is incorrect hence, denied. As replied above.
- e. That the ground e, as composed is incorrect hence, denied. Furthermore, the appellant should have approached to honorable Governor against the findings of the provincial ombudsman.

- f. That the ground f, as composed is incorrect hence, denied.
- g. That the ground g, as composed is incorrect hence, denied.
- h. That the ground h, as composed is incorrect hence, denied as appellant was treated according to law.
- i. In reply to ground i, it is submitted that comprehensive reply has already been given in Para Nos. 4 and 7 of the factual objections.
- j. That the ground j, as composed is incorrect hence, denied.
- k. That the respondents seek permission of this Honorable Tribunal to advance further grounds during arguments.

It is, therefore, very humbly prayed that in the light of forgoing comments the appeal in hand may graciously be dismissed with cost throughout.


District Education Officer (M)
Abbottabad.
(Respondent No.3)


Director
E&SE Khyber Pakhtunkhwa
Peshawar.
(Respondent No.2)


Secretary
E&SED Khyber Pakhtunkhwa
Peshawar.
(Respondent No.1)

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR AT CAMP COURT ABBOTTABAD

Appeal No. 1492/2019

Ghulam Nabi.....Appellant

VERSUS

Govt. Of KPK. & Others.....Respondents

SERVICE APPEAL

JOINT PARA WISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 TO 3.

AFFIDAVIT

I, Mr. Qazi Tajjamal Hussain, District Education Officer (M) Abbottabad, do hereby affirm and declare that contents of forgoing comments are correct and true according to the best of my knowledge and belief and nothing has been suppressed from this Honorable Tribunal.


DEPONENT



PROVINCIAL OMBUDSMAN (صوبائی اومبودسمن) SECRETARIAT,
KHYBER PAKHTUNKHWA

(6)

(B)

(41)

AMT

Complaint No.0161/02/2019

Dated 28/05/2019

1. Secretary Elementary & Secondary Education Department Khyber Pakhtunkhwa, Peshawar.
2. Director, Directorate of Elementary & Secondary Education Department Khyber Pakhtunkhwa.
3. District Education Officer (Male), Abbottabad.
4. Principal, Government High School Pawa, Abbottabad.
5. Mr. Syed Hidayat Ullah Shah S.A.T c/o Government High School Pawa Abbottabad (Contact # 03459553288).

Subject: REQUEST FOR CANCELLATION OF TRANSFER ORDER.

Memo:

I am directed to enclose herewith a copy of the Findings of the Provincial Ombudsman Khyber Pakhtunkhwa on the subject noted above for information and necessary action.

Under section 31 of the Khyber Pakhtunkhwa Provincial Ombudsman Act, 2010, the aggrieved person can file representation to the Governor, Khyber Pakhtunkhwa, within thirty days of the orders, if he so desired.

Mumtaz Ahmad
Consultant-II
Provincial Ombudsman Secretariat,
Khyber Pakhtunkhwa.

ENDST: EVEN NO & DATE:

Copy forwarded to the i/c Computer Section, Provincial Ombudsman Secretariat Khyber Pakhtunkhwa alongwith findings in duplicate for updating record under Regulation 19 of the Khyber Pakhtunkhwa Provincial Ombudsman Office (Registration, Investigation and Disposal of Complaints) Regulations, 2011.

Consultant-II
Provincial Ombudsman Secretariat,
Khyber Pakhtunkhwa.

AD: (CE)

Pl: put up
an file as
recommended
on memo

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CLOSURE FINDINGS	
1	COMPLAINT NO. P.O/Complaint No. 0161/02/2019.
2	NAME & ADDRESS OF THE COMPLAINANT: Syed Hidayat Ullah Shah S.T.A c/o Government High School Pawa Abbottabad.
3	NAME OF THE AGENCY COMPLAINED AGAINST: 1. Secretary, Elementary & Secondary Education Department Khyber Pakhtunkhwa Peshawar. 2. Director, Directorate Elementary & Secondary Education Department Khyber Pakhtunkhwa Peshawar. 3. District Education Officer (Male), Abbottabad. 4. Principal, Government High School Pawa, Abbottabad.
4	NAME OF THE INVESTIGATION OFFICER: Mumtaz Ahmad (Consultant-II).
5	SUBJECT OF COMPLAINT: Request for cancellation of transfer orders.
6	DATE OF REGISTRATION: 06/03/2019.
7	DATE OF FINDINGS: 27/05/2019.

THE COMPLAINT

Syed Hidayat Ullah Shah instituted a complaint stating that he was appointed as Arabic Teacher on 28/11/2009 and was posted in remote hilly area of Abbottabad and served there for 21 years. He was transferred to Government High School Pawa on 31/01/2009 as AT. On promotion to the post of SAT on 24/11/2014, he was adjusted in GHS Pawa. On vacant post of SAT in GHS Kakol, he submitted an application to the competent authority for his posting to the said school. But instead of acceding his request another teacher namely Mr. Ghulam Nabi who remained posted in GHS Bodla w.e.f 10/08/2017 was transferred to GHS Kakol on political basis. He has requested to direct the Agency to cancel transfer of Mr. Abdul Nabi and in his place he may be transferred on account of long stay in GHS, Pawa.

REPLY OF THE AGENCY

In response, District Education Officer (M) Abbottabad informed that Mr. Ghulam Nabi SAT GHS Bodla was transferred to GHS Kakul on 23/01/2019 having posted in longer distance as compared to the complainant. He has not represented against the said transfer order to Appellate Authority. Besides, the transfer of civil servant was a part and parcel of the service and he was bound to serve at any station in the district in terms of section 10 of Khyber Pakhtunkhwa Civil Servant Act, 1973.

REJOINDER

Reply of the Agency was communicated to the complainant for his rejoinder / feedback. In response, he stated that Mr. Ghulam Nabi was transferred to GHS Kakul on recommendation of MPA which was tantamount to bringing Political influence. His transfer to Kakul was against



PROVINCIAL OMBUDSMAN (صوبائی محتسب) SECRETARLAT,
KHYBER PAKHTUNKHWA

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the transfer policy of Government as he has completed 11 months on his new posting before transfer to Kakul whereas the complainant had completed 11 years on present posting.

HEARING

Due to divergent pleadings, the case was fixed for hearing on 06/05/2019. The complainant appeared for hearing and contended that he had submitted an application for his transfer to GHS Kakul but another teacher who had only 11 months tenure of posting was posted on recommendation of Member of Provincial Assembly. He submitted that the Apex Court in case titled Roshan Khan VS Director Schools and literacy (SCMR 2007-600) held that transfer of civil servant under the order of even a Minister was void and unlawful 1993 SCMR-1287 PLJ-2000 Service 473, PhD 1995 SC 530. Mr. Sohil Ahmad Zeb litigation Officer, office of District Education Officer Abbottabad stated that posting and transfer of teachers from one school to another was part and parcel of the service and prerogative of administration to keep teaching smoothly in schools. No teacher could claim posting to any particular school as matter of right. However, the complainant's request for posting in nearby school would be considered on availability of seat of Arabic teacher. AD of Education Department has also attended.

FINDINGS

Mr. Ghulam Nabi AT was posted on the basis of political pressure, as such, his posting was clearly in violation of Apex Court decision made in various cases. It is therefore, recommended that his posting to GHS Kakul may be withdrawn and on merit the posting of both teachers be decided by the Director Directorate of Education after thorough investigation is made.


AQAL BADSHAH KHATTAK
Provincial Ombudsman

27/05
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(9) (202) (44)
ANNOC

OFFICE OF THE DISTRICT EDUCATION OFFICER MALE ABBOTTABAD.

CANCELLATION OF TRANSFER ORDER.

In pursuance to the findings of Provincial Ombudsman Khyber Pakhtunkhwa dated 27-05-2019 in P.O/Complaint No. 0161/02/2019 received vide Memo: No. 5442 dated 28-05-2019, this office transfer order issued under Enst: No. 938-43 dated 23-01-2019 standing at S.No. 1 in respect of Mr. Ghulam Nabi SAT from GHS Bodla to GHS Kakul is hereby cancelled in the interest of public service with immediate effect.

Note:

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


DISTRICT EDUCATION OFFICER (M)
ABBOTTABAD.

Endst: No. 6633-309 /EB-II/Prov: Ombudsman Dated A:Abad the 13/6 /2019

Copy forwarded for information to the:-

1. Mr. Mumtaz Ahmed Consultant -II Provincial Ombudsman Khyber Pakhtunkhwa, Overseas Pakistanis Foundation Building, Phase V, Hayat Abad Peshawar w/r to findings dated 27-05-2019 in P.O/Complaint No. 0161/02/2019 received vide Memo: No. 5442 dated 28-05-2019,
2. Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar
3. Principal GHS Kakul and Bodla Abbottabad.
4. Distinct Comptroller of Accounts Abbottabad.
5. District Monitoring Office (IMU) Abbottabad
6. Syed Hidayat Ullah Shah SAT GHS Pawa Abbottabad.
7. Mr. Ghulam Nabi SAT GHS Kakul Abbottabad.


DISTRICT EDUCATION OFFICER (M)
ABBOTTABAD

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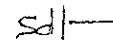
OFFICE OF THE DISTRICT EDUCATION OFFICER MALE ABBOTTABAD.

TRANSFER ORDER.

In pursuance to the findings of Provincial Ombudsman Khyber Pakhtunkhwa dated 27-05-2019 in P.O.Complaint No. 0161/02/2019 received vide Memo: No. 5442 dated 28-05-2019 and further Memo: No. 16158 dated 24-06-2019 Mr. Syed Hidayat Ullah Shah SAT GHS Pawa is hereby transferred to GHS Kakul against the vacant post of SAT in the interest of public Services with immediate effect.

Note:

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

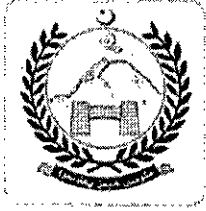

DISTRICT EDUCATION OFFICER
(M) ABBOTTABAD.

Endst: No. 7622-21 /EB-II/Prov: Ombudsman Dated A.Abad the 8/7 /2019

Copy forwarded for information to the: -

1. Assistant Director (Implementation) Provincial Ombudsman Secretariate, Khyber Pakhtunkhwa with reference to his No. P.O/Complaint/0161/ 02/ 2019/16158 dated 24-06-2019.
2. Director Elementary and Secondary Education Khyber Pakhtunkhwa Peshawar.
3. Principal GHS Kakul and Pawa District Abbottabad for compliance.
4. Distinct Comptroller of Accounts Abbottabad.
5. District Monitoring Office (IMU) Abbottabad
6. Syed Hidayat Ullah Shah SAT GHS Pawa Abbottabad.


DISTRICT EDUCATION OFFICER
(M) ABBOTTABAD



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 2247 /ST

Dated: 15/11 /2021

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

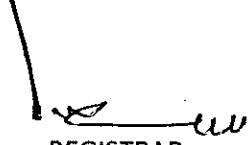
To

The District Education Officer Male,
Government of Khyber Pakhtunkhwa,
Abbotabad.

Subject: JUDGMENT IN APPEAL NO. 1492/2019, MR. GHULAM NABI.

I am directed to forward herewith a certified copy of Judgement dated 14.10.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR