

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 343/2016

Date of Institution ... 04.03.2016

Date of Decision ... 01.03.2018

Hazrat Umar son of Umar Khan R/O Kotka Nar Hafiz Abad, Post office Naurang  
Kotka Dheri, Tehsil and District Lakki Marwat. ... (Appellant)

VERSUS

1. Government of Khyber Pakhtunkhwa through Chief Secretary, Civil  
Secretariat, Peshawar and others. ... (Respondents)

Mr. Amanullah Marwat. ... For appellant  
Advocate

Mr. Muhammad Jan, ... For respondents.  
Deputy District Attorney,

MR. NIAZ MUHAMMAD KHAN, ... CHAIRMAN  
MR. AHMAD HASSAN, ... MEMBER

JUDGMENT

NIAZ MUIHAMMAD KHAN, CHAIRMAN.- Arguments of the learned  
counsel for the parties heard and record perused.

FACTS

2. The appellant was appointed as PTC Teacher in the year, 2002 in Education  
Department, FATA. Then an application was moved by the present appellant and  
one Kaleem Ullah to the Director of Education on 15.01.2012, on the basis of which  
a mutual transfer order was passed on 30.09.2013. Thereafter, the department also  
got verified the said transfer order which was duly verified by the office of the

Director Education on 05.1.2015. However, in the said verification order it was added that there was no vacant post at GPS Mush Masti Khani, Lakki Marwat and that the appellant be adjusted in GPS Nar Taj Muhammad. That no charge report was being received from the appellant in the school to which he was transferred. The appellant then filed a Writ Petition before the Worthy Peshawar High Court which was dismissed for want of jurisdiction on 06.05.2015, thereafter, he filed the present service appeal on 04.03.2016.

### **ARGUMENTS.**

3. The learned counsel for the appellant argued that the appellant was transferred on the basis of mutual transfer order. That Mr. Kaleem Ullah who was transferred in place of the appellant had reported in place of the appellant and had been receiving the pay since then. That the appellant was made to run from pillar to post for his adjustment and salary but the respondents had been denying his adjustment and salary since then.

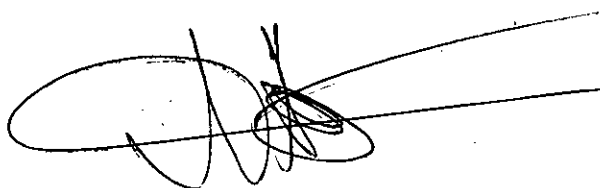
4. On the other hand, the learned Deputy District Attorney argued that the very mutual transfer order was illegal as it was against the transfer/posting policy in between Tribal Area and Settled Area. In this regard the learned DDA pressed into service a judgment of this Tribunal in service appeal No. 580/2013 entitled "*Gohar Iqbal Vs. The Additional Chief Secretary, FATA, Peshawar and others*" decided on 07.07.2017.

### **CONCLUSION.**


5. The mutual transfer was made by the Director Elementary & Secondary Education, Peshawar on the request of both the concerned teachers. The other

transferee took charge in FATA and has been receiving pay there but the appellant is being denied the benefit of that order on the ground that the order was against the posting/transfer policy as mentioned above. It is not understandable that how Mr. Kaleem Ullah has been adjusted and has been receiving pay under the same order and the appellant is being denied the adjustment and his pay on the ground that the order was against the policy. The judgment pressed into service by the learned DDA had different background. In that case there was no mutual transfer and the appellant in that case exercised political influence for the transfer against the policy. The Tribunal denied the relief to him for this political influence but in the present case, the background is different and the appellant is denied his adjustment and salary as mentioned above.

6. As a sequel to the above discussion, the present appeal is accepted. Parties are left to bear their own costs. File be consigned to the record room.



(AHMAD HASSAIN)  
MEMBER



(NIAZ MUHAMMAD KHAN)  
CHAIRMAN

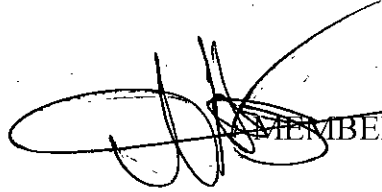
ANNOUNCED  
01.03.2018


343/16

01.03.2018

Counsel for the appellant and Muhammad Jan, Deputy District Attorney alongwith Muhammad Akram Superintendent for the respondents present. Arguments heard and record perused.

This appeal is accepted as per our detailed judgment of today. Parties are left to bear their own costs. File be consigned to the record room.

 MEMBER

 CHAIRMAN

ANNOUNCED  
01.03.2018

Ann: B

**DIRECTOR OF ELEMENTARY & SECONDARY EDUCATION KHYBER PAKHTUNKHWA  
PESHAWAR**

**OFFICE ORDER**

Consequence upon the approval of the competent authority the following Mutual transfer/adjustment are hereby order on their own pay and BPS No in the interest of the public services with immediate.

| S/No | Name         | Designation | From                    | To                                    | Remarks               |
|------|--------------|-------------|-------------------------|---------------------------------------|-----------------------|
| 1    | Hazrat Umer  | PTC         | GPS Zalai SWA           | GPS Mush Masti<br>Khani Lalkki Marwat | Against the<br>vacant |
| 2    | Kaleem Ullah | PTC         | GPS Toor Warai<br>Hungu | GPS Zalai SWA                         | Vice S.No.1           |

**NOTE**

- 1- Charge report should be submitted to all concerned
- 2- No TA/DA is allowed.
- 3- Principal /Headmaster concerned are directed to check their original service book/documents before making payment salaries.

*[Signature]*  
DIRECTOR

Elementary & Secondary Education  
Khyber Pakhtunkhwa, Peshawar

Endst No. 1785-93 /File No A-10 / PTC

Dated Peshawar the 30/9 /2013

**Copy to:**


- 1- District Education officer (Female) Bannu.
- 2- Agency Education officer concerned.
- 3- District Account Officer concerned.
- 4- Principal /Headmaster concerned.
- 5- PS to Minister for Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
- 6- PS to Director of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar
- 7- PS to Director of FATA Khyber Pakhtunkhwa Peshawar.
- 8- Master file.

*[Signature]*  
30/9/13  
Deputy Director (Establishment)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa, Peshawar

*[Signature]*  
SCT BPS-16  
GHSS Serai Naurang  
Distt: Lalkki Marwat

12.07.2017

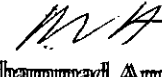
Appellant in person present. Mr. Hameed-ur-Rehman, AD (litigation) alongwith Mr. Kabirullah Khattak, Assistant AG for the respondents also present. Written reply by respondents no. 2 to 4 have already submitted. Learned Assistant AG and representative of respondent-department relies on the written reply submitted by respondents no. 2 to 4 on behalf of respondent No. 1. None present on behalf of respondent No. 5 despite issuance of notice by way of last chance, therefore, proceeded ex-parte. To come up for rejoinder and arguments on 08.11.2017 before D.B.

  
(Muhammad Amin Khan Kundi)  
Member

08.11.2017

Appellant in person present. Mr. Usman Ghani, District Attorney for the official respondents also present. Appellant submitted rejoinder which is placed on file and requested for adjournment. Adjourned. To come up for arguments on 02.01.2018 before D.B.

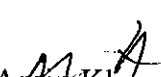
  
(Gul Zeb Khan)  
Member (E)

  
(Muhammad Amin Khan Kundi)  
Member (J)

02.01.2018

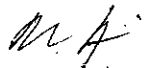
Appellant in person present. Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Hameed-ur-Rehman, AD (litigation) and Mr. Muhammad Akram, Superintendent for the respondents also present. Appellant requested for adjournment on the ground that his counsel is not available today. Adjourned. To come up for arguments on 01.03.2018 before D.B.

  
(Ahmad Hassan)  
Member(E)

  
(M. Amir Khan Kundi)  
Member (J)

19.06.2017

Appellant in person present. Mr. Muhammad Adeel Butt, Additional AG for the respondents also present. Written reply by respondents not submitted despite costs of Rs. 2000/-. Learned Additional AG for the respondents requested for further time for submission of written reply. Last opportunity is further extended subject to payment of further costs of Rs. 1000/- which shall be borne by the respondents from their own pockets. To come up for written reply/comments and costs of Rs. 3000/- on 20.06.2017 before S.B.

  
(Muhammad Amin Khan Kundi)  
Member

20.06.2017

Appellant in person present. Mr. Mumtaz Khan, Deputy Education Officer alongwith Mr. Kabirullah Khattak, Assistant AG for the respondents also present. Written reply alongwith costs of Rs. 3000/- submitted by representative of respondents No. 2 to 4. Cost of Rs. 3000/- paid to the appellant and receipt also obtained by him. None present on behalf of respondents No. 1 and 5, therefore, fresh notice be issued to respondents No. 1 & 5 for submission of written reply/comments by way of last chance. To come up for written reply/comments on behalf of respondents No. 1 and 5 on 12.07.2017 before S.B.

  
(Muhammad Amin Khan Kundi)  
Member



10.04.2017

Appellant in person and Mr. Sharifullah, ADO alongwith Mr. Muhammad Adeel Butt, Addl. AG for the respondents present. Written reply not submitted. Cost of Rs. 500/- paid and receipt thereof obtained from the appellant. Last opportunity is further extended subject to payment of further cost of Rs. 1000/- which shall be paid by respondents from their own pockets. To come up for written reply/comments and cost on 11.05.2017 before S.B.

  
Chairman

11.05.2017

Appellant in person present. Mr. Muhammad Adeel Butt, Additional AG for the respondents also present. Written reply by respondents not submitted despite cost of Rs. 1000/-. Learned Additional AG requested for further time for submission of written reply. Last opportunity is further extended subject to payment of further cost of Rs. 1000/- which shall be borne by the respondents from their own pockets. To come up for written reply/comments and cost of Rs. 2000/- on 19.06.2017 before S.B.


  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER



Appel No. 343/2016

19.12.2016

Counsel for the appellant, Sharifullah, ADO and Muhabat Khan, District Account Officer alongwith Assistant AG for respondents present. Learned Assistant AG requested for adjournment. Request accepted. Last opportunity granted. To come up for written reply/comments on 26.01.2017 before S.B.

  
Member

26.1.2017

Counsel for the appellant and Mr. Sharifullah, ADO alongwith Addl. AG for respondents present. Written reply not submitted despite last opportunity. Requested for further adjournment. Last opportunity is further extended subject to payment of cost of Rs. 1000/- which shall be borne by the respondents from their own pockets. To come up for written reply/comments and cost on 02.03.2017.

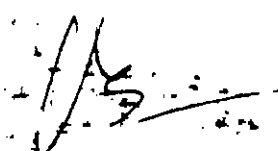
02.03.2017

Appellant present in person. Mr. Sharifullah, ADO alongwith Assst. AG for the respondents present. Written reply by respondents not submitted. Cost of Rs. 1000/- paid and receipt thereof obtained from the appellant. Last opportunity is further extended subject to payment of further cost of Rs. 500/- To come up for written reply/comments and cost on 10.04.2017 before S.B.

  
CHAIRMAN


19.05.2016

Appellant in person, M/S Sharifullah, ADO and Muhammad Akram Khan along with Addl. AG for respondents present. Written reply by respondents not submitted and requested for further time for submission of written reply To come up for written reply/comments on before S.B.

  
Member


05.10.2016 -

- None present for the appellant. Addl. AG for the respondents present. Notices be issued to both the parties for written reply/comments on 8.11.2016 before S.B.

  
(Muhammad Aamir Nazir)  
(Member)

08.11.2016

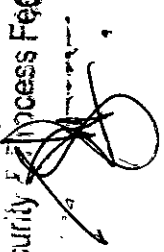
Clerk to counsel for the appellant and Mr. Mumtaz Khan, ADEO alongwith Addl. AG for respondents present. Written reply not submitted. Requested for adjournment. Request accepted. To come up for written reply/comments on 19.12.2016 before S.B.

  
Member

26.4.2016

Counsel for the appellant present. Learned counsel for appellant argued that the appellant was serving as PST at North Waziristan Agency and that on the strength of mutual transfer he was transferred to District Lakki Marwat vide order dated 30.09.2013. That despite the said order appellant was not allowed to assume charge and vide order dated 05.1.2015 appellant was adjusted at GPS Nar Taj Muhammad against the vacant post but despite the said order appellant was not allowed to perform duty and received salary constraining the appellant to file Writ Petition No. 94-B/2015 before the Hon'ble Peshawar High Court, Bannu Bench which was dismissed for want of jurisdiction vide judgment dated 06.05.2015 with the observation that the matter pertains to the terms and conditions of service. That thereafter appellant preferred departmental appeal on 10.12.2015 which was not responded and hence the instant service appeal on 04.03.2016.

Appellant Deposited  
Security & Process Fee



That the appellant is entitled to serve on the basis of transfer order dated 30.09.2013 in the area of district Lakki Marwat and the denial by the respondents including withholding of salary is an order against facts and law and therefore, liable to be set aside.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 19.05.2016 before S.B.

  
Chairman

Sir,

The observation of this office and reply of counsel for the appellant is submitted for order please. 018

*W. Aslam*  
REGISTRAR 15/3/16

HON'BLE CHAIRMAN

28.03.2016

Counsel for the appellant present. Informed the Tribunal that he is in possession copy of transfer order as well as copy of departmental appeal dated 10.2.2016 and would submit the same in office. Orders accordingly. The record is sent back to the Registrar for further process.

*J.*  
Chairman

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 343 /2016


| S.No. | Date of order Proceedings | Order or other proceedings with signature of judge or Magistrate  |
|-------|---------------------------|---|
| 1     | 2                         | 3   |
| 1     | 01.04.2016                | <p>The counsel for the appellant submitted a copy of transfer order as well as departmental appeal now the case is completed which may be entered in the Institution register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i><br/>REGISTRAR</p> |
| 2     | 11-04-2016                | <p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>12.4.16</u></p> <p style="text-align: right;"><i>[Signature]</i><br/>CHAIRMAN</p>   |
|       | 2.04.2016                 | <p>None present for appellant. Notice be issued to counsel for the appellant for preliminary hearing on 26.04.2016 before S.B.</p> <p style="text-align: right;"><i>[Signature]</i><br/>Chairman</p>  |

The appeal of Mr. Hazrat Umar son of Umar Khan R/o Kotka Nar Hafiz Abad Post Office Naurang Lakki Marwat received to-day i.e. on 04.03.2016 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of transfer order 30.9.2013 mentioned in para-2 of the memo of appeal is not attached with the appeal which may be placed on it.
- 2- Copy of departmental appeal is not attached with the appeal which may be placed on it.

No. 380 /S.T,

Dt. 4/3 /2016

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Amanullah Adv. Pesh.

① Transfer order dated 30-9-2013 is duly mentioned in Transfer order 5-1-2015 which is on page 24 of memo of appeal. even otherwise it is not disputed in the appeal and such order is the custody of Respondent and is not available with the Appellant.

② For redressal of his grievance, Appellant agitated the matter before Hon.ble Presiding which was dismissed. and copy of departmental is in the possession of Respondent. So, the case may please be filed before Tribunal. Copy of affidavit is attached.

14-3-2016

**BEFORE THE PESHAWAR HIGH COURT, PESHAWAR**

Service Appeal No. 343 /2016

Hazrat Umar .....Petitioner

**V E R S U S**

Govt of KPK And others.....Respondent

**I N D E X**

| S.No | Description of Documents                                 | Annex | Pages |
|------|--|-------|-------|
| 1.   | Service appeal with affidavit                            |       | 1-6   |
| 2.   | Application for condonation of delay alongwith affidavit |       | 7     |
| 3.   | Addresses of parties                                     |       | 8-9   |
| 4.   | Copy of service book                                     | A     | 10-20 |
| 5.   | Copy of application and pay slip                         | B-C   | 21-22 |
| 6.   | Copy of orders dated 12.01.2014 and 05.01.2015           | D-E   | 23-24 |
| 7.   | Copy of writ petition and order dated 06.05.2015         | F     | 25-34 |
| 8.   | Wakalat Nama   |       | 35    |

*Hazrat Umar*  
Petitioner

Through

*Amanullah Marwat*  
**Amanullah Marwat**  
Advocate, Peshawar  
0334-9054585

Date: 29/02/2016

①

**BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR**

Service Appeal No. 343 /2016

A.W.F. Province  
Service Tribunal  
Slary No. 183  
Dated 04-3-2016

Hazrat Umar S/o Umar Khan  
R/o Kotka Nar Hafiz Abad, PO Naurang Kotka Dheri,  
Tehsil and District, Lakki Marwat.....Appellant

**V E R S U S**

1. Govt of KPK through Chief Secretary  
Civil Secretariat, Peshawar
2. Secretary Education,  
Govt of KPK, Civil Secretariat, Peshawar
3. Director Elementary & Secondary Education,  
Govt of KPK, Peshawar
4. District Education Officer,  
District Lakki Marwat
5. Sub-Divisional Education Officer (Primary) Male,  
District Lakki Marwat
6. District Accounts Officer,  
District Lakki Marwat.....Respondents

**Service Appeal u/s 4 of Services Tribunal Act, 1973 against the non-acceptance of charge/ arrival report and stoppage of monthly salary of the appellant by the respondents.**

**Prayer in Appeal:**

On acceptance of this service appeal, the respondent No.4 and 5 may please be directed to accept the charge/ arrival report as well as

*Filed to day*  
*4/3/2016*

*re-submitted*  
*11/9/16*



release the monthly salary of the appellant w.e.f 03.11.2013 till date, Which has been withheld by the respondents illegally and with out justified reasons.

**Respectfully Sheweth:**

1. That the appellant is a bonafide resident of Tehsil and District, Lakki Marwat, who has been appointed as PTC Teacher in Govt Primary School, Zalai North Waziristan Agency. Since then, he is performing his duties with zeal and zest. (Copy of service book is attached as Annexure "A").
2. That the appellant moved an application before respondent No.3 for his mutual transfer from GPS, Zalai, North Waziristan Agency to GPS Mush Masti Khani, Lakki Marwat, which was accepted vide order dated 30.09.2013 and he was transferred accordingly. (Copy of application and Pay Slip are Annexure "B" & "C").
3. That respondent No.4 conducted an inquiry & investigation regarding said mutual transfer vide order dated 12.11.2014 after completion of inquiry it was found that mutual transfer is based upon public interest and in accordance with law. Thereafter, the respondent No.3 issued an order on 05.01.2015 of adjustment of appellant in GPS, Nar Taj Muhammad against vacant post with further direction to release his

3

salary. (Copy of orders dated 12.01.2014 and 05.01.2015 are Annexure "D" & "E").

4. That after receipt of the copy of transfer order, the appellant arrived at relevant school but respondent No.5 refused to accept the arrival of the appellant despite repeated requests made by him.
5. That thereafter having no other adequate remedy, appellant agitated the matter before the Hon'ble Peshawar High Court, Circuit Bench, Bannu by filing writ petition No.94-B/15 for redressal of his grievance, which was dismissed on the ground of jurisdiction on 06.05.2015. (Copy of writ petition and order dated 06.05.2015 are Annexure "F").
6. That after dismissal of such writ petition, the appellant again approached the respondents for redressal of his grievances, but in vain, hence the instant service appeal, inter alia, on the following grounds:

**GROUND S:**

- A. That non-acceptance/ assumption of charge after verified transfer order by the respondent No.5, is illegal, against law, without lawful authority and jurisdiction.
- B. That stoppage of monthly salary of the appellant sine 03.11.2013 till date without any lawful

reason, is the violation of fundamental rights of the appellant and Article 9 of the Constitution of Islamic Republic of Pakistan, 1973.

- C. That it is fundamental rights of the petitioners to be treated equally and are also entitled to equal protection of law, but in the instant case, the respondents have blatantly bypassed all rules regulating the subject matter.
- D. That respondents are under the constitutional command to deal the appellant strictly in accordance with law, so, such action by stopping the salary of appellant is based on malafide and some extraneous considerations.
- E. That once mutual transfer order is verified by the authorities then respondents are left with no option but to comply orders passed by the competent authority, in letter & spirit, so non-compliance of transfer order by the respondent No.5 is not permissible under the law, therefore, he is liable to be proceeded and be punished in accordance with law.
- F. That appointment order as well as transfer order of the appellant has not been disputed by the respondents, so in such circumstances, respondent No.5 is not permitted by any law to refuse acceptance of arrival report of appellant, thus, such action of respondent No.5 amounts to interfere in performance of lawful duty of

5

appellant, which exposing him for criminal action under Pakistan Penal Code (PPC).

- G. That any other ground may be adduced during the course of arguments, with the kind permission of this Honourable Tribunal.

It is, therefore, respectfully prayed that on acceptance of service appeal, the respondent No.4 may please be directed to accept the charge/ arrival report as well as release the monthly salary of the appellant w.e.f 03.11.2013 till date, which has been withheld by the respondents illegally and without justified reasons.

Any other writ/ order/ direction deemed proper and just in the circumstances of the case, be also issued/ ordered/ given.

*Flap-ud-Hameer*  
Appellant

Through

*Amanullah Marwat*  
**Amanullah Marwat**  
Advocate, Peshawar

Date: 29/03/2016

6

**BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR**

Service Appeal No. \_\_\_\_\_/2016

Hazrat Umar.....Appellant

**V E R S U S**

Govt of KPK and others.....Respondents

**AFFIDAVIT**

I, Hazrat Umar S/o Umar Khan R/o Kotka Nar Hafiz Abad, PO Naurang Kotka Dheri, Tehsil and District, Lakki Marwat, do hereby solemnly affirm and declare on oath that the contents of the **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



*Hazrat Umar*  
DEPONENT

②

**BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR**

Service Appeal No. \_\_\_\_\_/2016

Hazrat Umar.....Appellant

**V E R S U S**

Govt of KPK and others.....Respondents

**ADDRESSES OF PARTIES**

**APPELLANT:**

Hazrat Umar S/o Umar Khan  
R/o Kotka Nar Hafiz Abad, PO Naurang Kotka  
Dheri, Tehsil and District, Lakki Marwat

**RESPONDENTS:**

1. Govt of KPK through Chief Secretary  
Civil Secretariat, Peshawar
2. Secretary Education,  
Govt of KPK, Civil Secretariat, Peshawar
3. Director Elementary & Secondary Education,  
Govt of KPK, Peshawar
4. District Education Officer,  
District Lakki Marwat
5. Sub-Divisional Education Officer (Primary) Male,  
District Lakki Marwat
6. District Accounts Officer, District Lakki Marwat

*Hazrat Umar*  
Appellant

Through

*Amanullah Marwat*  
**Amanullah Marwat**  
Advocate, Peshawar

Date: 29/03/2015

8

**BEFORE THE SERVICES TRIBUNAL, KPK, PESHAWAR**

Service Appeal No. \_\_\_\_\_/2016

Hazrat Umar.....Appellant

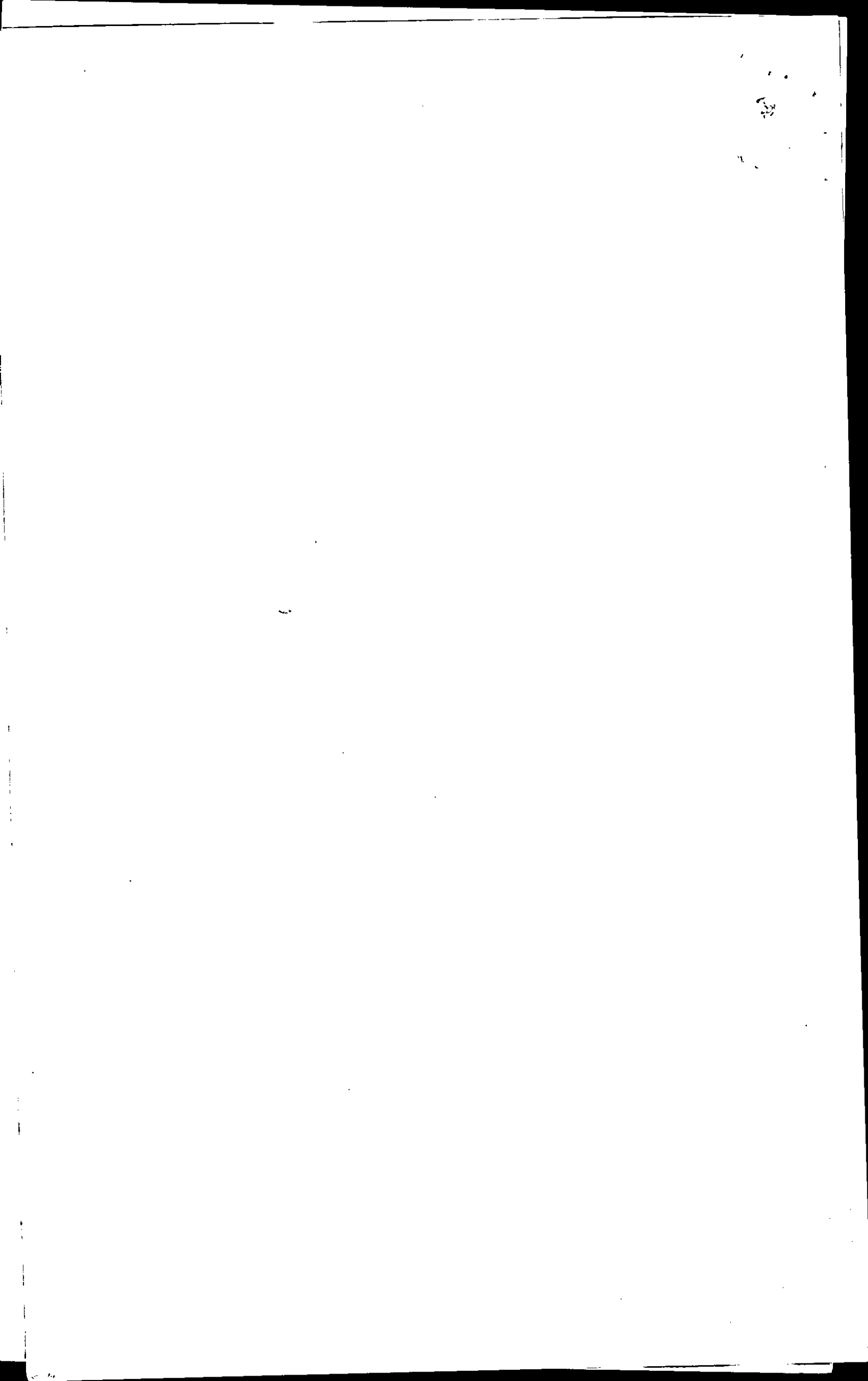
**V E R S U S**

Govt of KPK and others.....Respondents

**Application for condonation of delay, if  
any, in filing of instant service appeal.**

**Respectfully Sheweth:**

1. That the instant service appeal is being filed before this Honourable Tribunal, in which no date of hearing has yet been fixed.
2. That the appellant has been transferred from North Waziristan Agency to District Lakki Marwat on 30.09.2013 on the order issued by Director, Elementary & Secondary Education, KPK, Peshawar after observing all codal formalities, but respondent No.5 is reluctant to accept the arrival report of the applicant/appellant and illegally withheld his salary.
3. That the appellant has agitated the matter before Honourable Peshawar High Court, Bannu Bench in writ petition annexed with main service appeal.





- 4. That the matter involved in the instant appeal pertains to salary, which give rise continuous cause of action to the applicant. Even otherwise, law favours adjudication on merits rather on technical grounds.

It is, therefore, respectfully prayed that on acceptance of application, the delay, if any, in filing of service appeal, may please be condoned in the best interest of justice.

*Hazrat Umar*  
Applicant/ Appellant

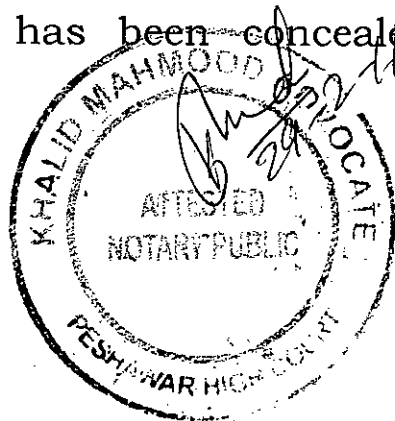
Through

*Amanullah Marwat*  
**Amanullah Marwat**  
Advocate, Peshawar

Date: 29/03/2016

**AFFIDAVIT**

I, Hazrat Umar S/o Umar Khan R/o Kotka Nar Hafiz Abad, PO Naurang Kotka Dheri, Tehsil and District, Lakki Marwat, do hereby solemnly affirm and declare on oath that the contents of the **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



*Hazrat Umar*  
DEPONENT

Handwritten marks and scribbles at the top right corner.

# SERVICE BOOK

Handwritten Urdu text on ruled lines: "سروس بک" and "پبلشنگ ہاؤس"

## سروس بک

## پبلشنگ ہاؤس

بک سیلز اینڈ ڈسٹریبیوٹرز بازار کراچی

ڈیڑھ اسٹریٹ کراچی

Vertical text on the left margin: "500/- ..."

Vertical text on the left margin: "سروس بک ..."

Vertical text on the left margin: "پبلشنگ ہاؤس ..."

Vertical text on the left margin: "بک سیلز اینڈ ڈسٹریبیوٹرز ..."

11

1. Passed. S.S.C. examination  
Heirs.

2. from BISE Bannu. under  
Roll No. 5850 in Session  
1999 obtaining marks 396/850

Verification Roll No. Dated received back

Left thumb-impression. Agency Education Officer  
S.W.A TANK

| Qualifications    | Dated                              | Qualifications                      | Dated |
|-------------------|------------------------------------|-------------------------------------|-------|
| English           | Passed.                            | First Arts                          |       |
| Pashtu            |                                    | B. L. or B. A.                      |       |
| Urdu              | BISE Dept. Registration Department | Pleadership examination             |       |
| Plan-drawing      | Exam under govt. Dept. No.         | Training School final examination   |       |
| Finger print      | 18th.                              | Other qualifications                |       |
| Drill-instructing |                                    | under Roll No. 747 dated            |       |
| Court duties      |                                    | 06 Dec. Certificate of Result is    |       |
| Reserve duties    |                                    | dated 06 Dec. Certificate of Result |       |

19-9-96

Agency Education Officer  
S.W.A TANK

Passed for immediate examination  
from BISE Bannu. under  
Roll No. 36340 in Session 2005  
obtaining marks. 519/1100 dated 06  
December 2005  
with verification letter No. 918 dated  
21-11-2006

N.B. A line to be drawn under the qualification possessed.  
Agency Education Officer  
S.W.A TANK

12

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.

12

Name Mozeset Yerman

Race Wazir

Residence Village Hays Pungas Lib Boma  
W. C. S. S. S.

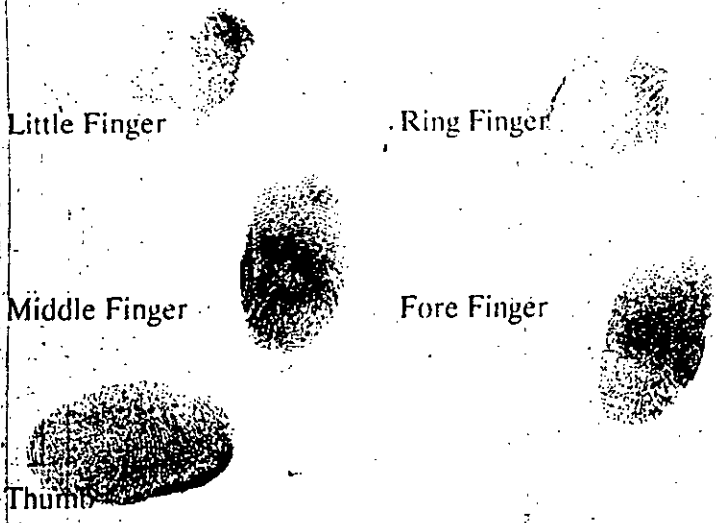
Father's name and residence Yerman Yerman

Date of birth by Christian era or as nearly as can be ascertained. (3-10-1976) according to  
SS certificate

Exact height by measurement 5-6

Personal marks for identification A Scar on Right Cheek

Left hand thumb and finger impression of (non-gazetted Officer)



Signature of Government Servant [Signature]

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

[Signature]  
Agency Education Officer  
S.W.A TANK

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is  
ult

| 9                               | 10                                 | 11  | 12   | 13                                 |   | 14   | 15   |
|---------------------------------|------------------------------------|---|--|------------------------------------|---|--|--|
| Signature of Government Servant | Date of termination or appointment | Reason of termination (such as promotion, transfer dismissal etc) | Signature of the Head of the office of other attesting Officer | LEAVE                              |   | Signature of the head of the office or other Attesting officer | Reference to any recorded punishment, or censure, or reward or praised of the Government servant |
|                                 |                                    |   |  | Nature and duration of leave taken | Allocation of periods of leave on average pay upto four months (or earned leave not exceeding 120 days) to which leave salary is debitabale to another Government |  |  |
| دستخط                           | تاریخ                              | دبورات  | دستخط  | رضت                                | Period  | Govt. to which debitabale                                      | دستخط  |
| دستخط                           | انقطاع                             | ترقی یا تبادلہ  | افسر مجاز  | کی نوعیت                           | ۶ مہ  | گورنمنٹ پیسے رقم ادا ہوگی                                      | افسر مجاز  |
| 2                               | 30/11/05                           | A19   | [Signature]  | [Signature]                        | Appointed against P.T.C. post on contract   |  | منزایا یا پزیرنا سب کارکردگی کار پیکار   |
| A. Tank                         | 30/11/2004                         | A.E.O. G.W.A. Tank  | [Signature]  | [Signature]                        | Basis for 200 years will be 140.527-32 dated 29-8-2002  |  |  |
| A.E.O. G.W.A. Tank              | 30/11/05                           | A.E.O. G.W.A. Tank  | [Signature]  | [Signature]                        | Agency Education Officer S.W.A TANK   |  |  |
| A.E.O. G.W.A. Tank              | 30/11/05                           | A.E.O. G.W.A. Tank  | [Signature]  | [Signature]                        | Agency Education Officer S.W.A TANK   |  |  |
| A.E.O. G.W.A. Tank              | 30/11/06                           | A.E.O. G.W.A. Tank  | [Signature]  | [Signature]                        | Agency Education Officer S.W.A TANK   |  |  |
| A.E.O. G.W.A. Tank              | 30/11/07                           | A.E.O. G.W.A. Tank  | [Signature]  | [Signature]                        | Agency Education Officer S.W.A TANK   |  |  |
| A.E.O. G.W.A. Tank              | 30/11/07                           | A.E.O. G.W.A. Tank  | [Signature]  | [Signature]                        | Service Verified wcf. 2-8-09 to 3-11-09 from pay Bills and other office record  |  |  |

CT-2

14

| 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 rule 3.20 of C.S.R. (Ph.) volume II | Pay in substantive post         | Additional pay for officiating    | Other emoluments falling under the term "pay" | Date of appointment | Signature Government Servant |
| درجہ ملازمت  | عارضی، مستقل<br>یا<br>تمام مقام  | اگر عارضی ہے تو کیا وہ<br>دولت کے مطابق پیش<br>کا مستحق ہے  | تخواریہ بطور<br>عارضی<br>ملازمت | زائد تخواریہ<br>بطور<br>تمام مقام | ماسوائے تخواریہ<br>دیگر<br>الاولیٰ            | تاریخ<br>تقریری     | مستقل<br>ری ملازم            |
|              |  |   | Rs. Ps.                         | Rs. Ps.                           |   |                     |                              |
|              |  |   |                                 | Rs. 2220/-                        |   | 12/2002             |                              |
|              |  |   |                                 | Rs. 2340/- P.m.                   |   | 12/2003             |                              |
|              |  |   |                                 | Rs. 2460/-                        |   | 12/2004             |                              |
|              |  |   |                                 | Rs. 2835/-                        |   | 12/2005             |                              |
|              |  |   |                                 | Rs. 2975/- P.m.                   |   | 12/2005             |                              |
|              |  |   |                                 | Rs. 3105/- P.m.                   |   | 12/2006             |                              |
|              |  |   |                                 | Rs. 2940 - 16 = 2740              |   |                     |                              |
|              |  |   |                                 | Rs. 3580/- P.m.                   |   | 7/07                |                              |

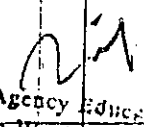
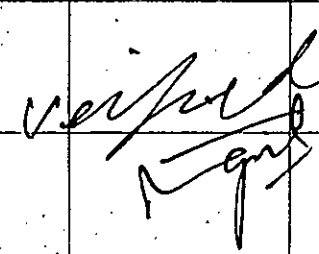
Law Officer

Signature

| 8  | 9 | 10                                 | 11  | 12   | 13   | 14                        | 15   |  |
|--|---|------------------------------------|---|--|--|---------------------------|--|--|
| Signature of Government Servant  |   | Date of termination or appointment | Reason of termination (such as promotion, transfer dismissal etc) | Signature of the Head of the office of other Attesting Officer | LEAVE  |                           | Signature of the head of the office or other Attesting officer | Reference to any records punishment, censure, or reward or praised of the Government servant |
| Nature and designation of Head of office or other Attesting Officer in Station of posts 1 to 8   |   |                                    |   |  | Allocation of periods of leave on average pay upto four months (or earned leave not exceeding 120 days) to which leave salary is debitabale to another Government                            |                           |  |  |
|  |   |                                    |   |  | Period   | Govt. to which debitabale |  |  |
|  |   | تاریخ                              | وجوہات  | دستخط  | ۰۹   | گورنمنٹ جسے رقم ادا ہوگی۔ | دستخط  | ایما جی ایچ ایف مناسبت   |
|  |   | انقطاع                             | انقطاع ملازمت ترقی، تبادلہ یا برطرفی                              | ادفینہ مجاز  |  |                           | ادفینہ مجاز  | بزدگی کار پکارڈ  |
|  |   | ملازمت                             |   |  |  |                           |  |  |
| <p>Allowed Upgradation of Scale vide Finance Department Notification No. FD (PRC) 1-1/89. Dated 07.08.1991 from BPS <u>7</u> to BPS <u>9</u> w.e.f. <u>30-9-2006</u> being Passed <u>FA</u> in Second Division</p> <p><i>21</i><br/>Agency Education Officer<br/>South Waziristan Agency Tank.</p>   |   |                                    |   |  | <p><i>Service regularized from 29/11/2002 to 30/11/2004 from pay bills and other official work</i></p> <p><i>21</i><br/>Agency Education Officer<br/>S.W.A. Tank</p>                         |                           |  |  |
| <p>Services Regularized with no Pensionary benefits of Contract Employees appointed against Regular Posts w.e.f. date of appointment on or after 01.07.2001 vide Notification No. PAM/1777/Lege-1/2004/2005 Dated 23.07.2005 Endorsed Vide DE FATA No. 23077-S/1/A-1, Dated 16.12.2006 and AEO Encls. No. 2059-2120 Dated 23.12.2006</p> <p><i>21</i><br/>Agency Education Officer<br/>South Waziristan Agency Tank.</p> |   |                                    |   |  | <p><i>Service regularized from 12/12/2004 to 30/11/2006 from pay bills and other official work</i></p> <p><i>21</i><br/>Agency Education Officer<br/>S.W.A. Tank</p>                         |                           |  |  |
| <p><u>Under Taking</u><br/>I hereby under take to the effect that if any over payment is made to me on account of wrong Upgradation of Scale or fixation of pay, the same will be Recovered from my pay etc.</p> <p><i>21</i><br/>Agency Education Officer<br/>South Waziristan Agency Tank.</p>   |   |                                    |   |  | <p><i>21</i><br/>Agency Education Officer<br/>S.W.A. Tank</p> <p><i>10/11/07</i><br/>w.e.f. 10/11/07 To 30/11/07 Rs 2910/-</p> <p><i>21</i><br/>Agency Education Officer<br/>S.W.A. Tank</p> |                           |  |  |

*Handwritten signature*

16

| 1            | 2  | 3   | 4  | 5                              | 6   | 7                   | 8         | 9                         |
|--------------|--|---|--|--------------------------------|---|---------------------|-----------|---------------------------|
| 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 rule 3.20 of C.S.R. (Pb.) volume II | Pay in substantive post  | Additional pay for officiating | Other emoluments falling under the term "pay" | Date of appointment | Signature | Official Station          |
| درجہ ملازمت  | عارضی، مستقل یا قائم مقام  | اگر عارضی ہے تو کیا وہ رول کے مطابق پیش کش کی گئی ہے  | تخواہ بطور عارضی ملازمت  | زائد تخواہ بطور قائم مقام      | ماسوائے تخواہ دیگر الاؤنس                     | تاریخ تقرری         |           | جنرل گورنمنٹ سروسز ایجنسی |
|              |  |   | Rs. Ps.  | Rs. Ps.                        |   |                     |           |                           |
|              |  |   | Pay fixed departmentally in R.P.S 7 provisionally as under:  |                                |   |                     |           |                           |
|              |  |   | Rs. 2555-190-625   |                                |   |                     |           |                           |
|              |  |   | Pay on 29-9-2006 Rs. 2971-190  |                                |   |                     |           |                           |
|              |  |   | Rs. 2770-165-720   |                                |   |                     |           |                           |
|              |  |   | Pay on 30-09-2006 Rs. 3101-190-720   |                                |   |                     |           |                           |
|              |  |   | Rs. 3185-190-725   |                                |   |                     |           |                           |
|              |  |   | Pay on 01-07-2007 Rs. 3565-190-725   |                                |   |                     |           |                           |
|              |  |   | Next Increment on 01/12/2007   |                                |   |                     |           |                           |
|              |  |   | <br>Agency Education Officer<br>South Waziristan Agency (F&S) |                                |   |                     |           |                           |
|              |  |   |   |                                |   |                     |           |                           |



| 2  | 3   | 4                              | 5                                | 6   | 7                   | 8                               |
|--|---|--------------------------------|----------------------------------|---|---------------------|---------------------------------|
| Whether substantive or officiating, and whether permanent or temporary | If officiating state (i) substantive appointment or (ii) whether service counts for pension under rule 3.20 of C.S.R. (Pb.) volume II | Pay in substantive post        | Additional pay for officiating   | Other emoluments falling under the term "pay" | Date of appointment | Signature of Government Servant |
| درجہ ملازمت<br>عارضی، مستقل<br>یا<br>قائم مقام                         | اگر عارضی ہے تو زیادہ<br>روا کے مطابق پیش<br>کرنا مستحق ہے  | تنخواہ بطور<br>عارضی<br>ملازمت | زائد تنخواہ<br>بطور<br>قائم مقام | ماسوائے تنخواہ<br>دیگر<br>الادائش             | تاریخ<br>تقرری      | دستخط<br>سرکاری ملازم           |
|  |   | Rs. Ps.                        | Rs. Ps.                          |   |                     |                                 |
|  |   | Rs. 3565/-                     |                                  |   | 17/09               |                                 |
|  |   | Rs. 3755/-                     |                                  |   | 12/07               |                                 |
|  |   | Rs. 3820 - 230 - 10720         |                                  |   | 17/08               |                                 |
|  |   | Rs. 4510/-                     |                                  |   | 12/08               |                                 |
|  |   | Rs. 4740/-                     |                                  |   | 11/12/2009          |                                 |
|  |   | Rs. 4970/-                     |                                  |   | 11/12/2010          |                                 |
|  |   | Rs. 5200/-                     |                                  |   | 11/7/2011           |                                 |
|  |   | Rs. 8482/-                     |                                  |   | 1/12/2011           |                                 |
|  |   | Rs. 8860/-                     |                                  |   | 1/12/2012           |                                 |
|  |   | Rs. 9000/-                     |                                  |   | 1/7/2012            |                                 |
|  |   | Rs. 9500/-                     |                                  |   | 1/12/2012           |                                 |
|  |   | Rs. 9500/-                     |                                  |   | 01/2013             |                                 |

سرکاری ملازمت کے دوران کسی خاص کام کے لئے فراہم کیے جانے والے ملازمین کی فہرست  
 ملازمت کے دوران کسی خاص کام کے لئے فراہم کیے جانے والے ملازمین کی فہرست  
 ملازمت کے دوران کسی خاص کام کے لئے فراہم کیے جانے والے ملازمین کی فہرست

18

14

| Signature of Government Servant | Signature and designation of Head of Office or other Attesting Officer in attestation of Forms 1 to 8 | Date of termination or appointment | Reason of termination (such as promotion, transfer dismissal etc) | Signature of the Head of the office of other attesting Officer | Nature and duration of leave taken | LEAVE Allocation of periods of leave on average pay upto four months (or earned leave not exceeding 120 days) to which leave salary is debit to another Government |  | Signature of the head of the office or other Attesting officer | Reference any record punishment, censure, reward or praise of Government servant |
|---------------------------------|---|------------------------------------|---|--|------------------------------------|--|--|--|--|
|                                 |   |                                    |   |  |                                    | Period   | Govt. to which debit   |  |  |
|                                 |   | 30/11/07                           | دبوات   | دستخط افسر مجاز  | رضت کی ذمیت دینیاد                 |  | چار ماہ تک کی رضت کے لیے اوسط تنخواہ کا تین                    | دستخط افسر مجاز  | ایوانا پر مشابہ ریکارڈ   |
|                                 | A.E.O. W.A.TODA   | 30/11/07                           | انقطاع ملازمت   | دستخط افسر مجاز  | رضت کی ذمیت دینیاد                 |  | Service verified from 12/2006 to 30/11/07 from                 |  |  |
|                                 | A.E.O. W.A.TODA   | 30/6/08                            | رجسٹرڈ  | A.E.O. W.A.TODA  |                                    |  | pay lib and other app<br>beant                                 |  |  |
|                                 | A.E.O. W.A.TODA   | 30/11/08                           | انقطاع ملازمت   | A.E.O. W.A.TODA  |                                    |  | AGENCY EDUCATION<br>Officer SWA Tank                           |  |  |
|                                 | A.E.O. W.A.TODA   | 30/11/09                           | انقطاع ملازمت   | A.E.O. W.A.TODA  |                                    |  |  |  |  |
|                                 | A.E.O. W.A.TODA   | 30/11/2010                         | انقطاع ملازمت   | A.E.O. W.A.TODA  |                                    |  | Service verified from 12/07 to 30/11/08 from                   |  |  |
|                                 | A.E.O. W.A.TODA   | 30/11/2011                         | انقطاع ملازمت   | A.E.O. W.A.TODA  |                                    |  | pay lib and other<br>app beant                                 |  |  |
|                                 | A.E.O. W.A.TODA   | 30/11/2012                         | انقطاع ملازمت   | A.E.O. W.A.TODA  |                                    |  | AGENCY EDUCATION<br>Officer SWA Tank                           |  |  |
|                                 | A.E.O. W.A.TODA   | 30/11/2012                         | انقطاع ملازمت   | A.E.O. W.A.TODA  |                                    |  | Service verified up to 11/2008<br>to 30/11/2011 from by office |  |  |
|                                 | A.E.O. W.A.TODA   | 31/10/2013                         | Transfer  | A.E.O. W.A.TODA  |                                    |  |  |  |  |

S.D.O. Lakker

S.D.O. Lakker

Agency Education Officer  
SWA Agency

Service from pay 31-10-2013



| <p>Signature of Government Servant</p> <p>دستخط<br/>سرکاری ملازم</p> | <p>Signature and designation of Head of office or other attesting officer in station of 11 to 18</p> <p>دستخط<br/>افسر مجاز</p> | <p>10<br/>Date of termination or appointment</p> <p>ساروخ<br/>انقطاع<br/>ملازمت</p> | <p>11<br/>Reason of termination (such as promotion, transfer dismissal etc)</p> <p>وجوہات<br/>انقطاع ملازمت<br/>ترقی یا تبادلہ<br/>بابرطرفی</p> | <p>12<br/>Signature of the Head of the office of other attesting Officer</p> <p>دستخط<br/>افسر مجاز</p> | <p>(25)<br/>چھٹی</p> <p>Nature and duration of leave taken</p> <p>رخصت<br/>کی نوعیت<br/>وسیاحت</p> | <p>13<br/>LEAVE Allocation of periods of leave on average pay upto four months (or earned leave not exceeding 120 days) to which leave salary is debitable to another Government</p> <p>چار ماہ تک کی رخصت کیلئے اوسط تنخواہ کا تعین</p> <table border="1" data-bbox="917 415 1262 604"> <thead> <tr> <th>Period</th> <th>Govt. to which debitable</th> </tr> </thead> <tbody> <tr> <td>عرصہ</td> <td>گورنمنٹ سے رقم ادا ہوگی</td> </tr> </tbody> </table> | Period | Govt. to which debitable | عرصہ | گورنمنٹ سے رقم ادا ہوگی | <p>14<br/>Signature of the head of the office or other Attesting officer</p> <p>دستخط<br/>افسر مجاز</p> | <p>15<br/>Reference any recommendation, praise, reward or other Government service</p> <p>ایگزٹنٹ<br/>کی کارکردگی</p> |
|--|---|---|---|---|--|--|--------|--------------------------|------|-------------------------|---|---|
| Period   | Govt. to which debitable  |   |   |   |  |  |        |                          |      |                         |   |   |
| عرصہ   | گورنمنٹ سے رقم ادا ہوگی   |   |   |   |  |  |        |                          |      |                         |   |   |
|  |   |   |   |   |  |  |        |                          |      |                         |   |   |
|  |   |   |   |   |  |  |        |                          |      |                         |   |   |
|  |   |   |   |   |  |  |        |                          |      |                         |   |   |
|  |   |   |   |   |  |  |        |                          |      |                         |   |   |
|  |   |   |   |   |  |  |        |                          |      |                         |   |   |
|  |   |   |   |   |  |  |        |                          |      |                         |   |   |
|  |   |   |   |   |  |  |        |                          |      |                         |   |   |
|  |   |   |   |   |  |  |        |                          |      |                         |   |   |
|  |   |   |   |   |  |  |        |                          |      |                         |   |   |
|  |   |   |   |   |  |  |        |                          |      |                         |   |   |
|  |   |   |   |   |  |  |        |                          |      |                         |   |   |
|  |   |   |   |   |  |  |        |                          |      |                         |   |   |
|  |   |   |   |   |  |  |        |                          |      |                         |   |   |
|  |   |   |   |   |  |  |        |                          |      |                         |   |   |
|  |   |   |   |   |  |  |        |                          |      |                         |   |   |

Annual/General  
on 30 <sup>11</sup>/<sub>25</sub> / 14

Handwritten signature or scribble

تصویر صاب ڈیٹر کی طرف سے لکھی گئی ہے۔  
صاب عالی

صورت : درخواست دربارہ باہمی تبدیلی

گورنمنٹ کے ایچ ایس ایس کے بارے میں تبدیلی پر رضامندی  
① یہ زمین سائن تبدیلی کا مقصد ہے۔

گورنمنٹ کے بارے میں تبدیلی کی درخواستیں ایچ ایس ایس میں  
تبدیلی کے بارے میں تبدیلی کی درخواستیں ایچ ایس ایس میں  
میں تبدیلی کی درخواستیں ایچ ایس ایس میں  
اگر تبدیلی فرمایا جائے تو

② یہ زمین سائن تبدیلی کا مقصد ہے۔  
ایچ ایس ایس کے بارے میں تبدیلی کی درخواستیں ایچ ایس ایس میں  
تبدیلی کے بارے میں تبدیلی کی درخواستیں ایچ ایس ایس میں  
وفاقی درخواستیں

حضرت علیؓ کے بارے میں تبدیلی کی درخواستیں ایچ ایس ایس میں  
تبدیلی کے بارے میں تبدیلی کی درخواستیں ایچ ایس ایس میں

No objection

*[Signature]*  
E.D.O

Kalunnulla  
②

I have no objection

*[Signature]*  
A.E.D

22

"C"

LAST PAY CERTIFICATE

*[Handwritten signature]*

1. Last Pay Certificate of Ms Hazrat Vomer PTC  
 of the SPS Zalaia GNM  
 Proceeding of Transfer  
 to SPS. Mudi Marti Khami Lakhi Marwat  
 2. He has been paid upto 31-10-2013

at the following rates:-

| Particulars.                    | Amount                |
|---------------------------------|-----------------------|
| Substantive Pay                 | Rs 1151/MA = 9500/-   |
| Officiating Pay                 | Rs 1212/BA = 1307/-   |
| Exchange Compensation Allowance | Rs 1239/TA = 500/-    |
|                                 | Rs 1233/VDA = 1700/-  |
|                                 | Rs 1217/MA = 1000/-   |
|                                 | ARA 50% = 2600/-      |
|                                 | ARA 10% = 950/-       |
|                                 | Rs 1203-5/TA = 2700/- |
|                                 | ARA 20% = 1900/-      |
|                                 | = ARA 15% = 780/-     |
|                                 | <u>Total 22957/-</u>  |

3. He made over charge of the Office of PTC Post at SPS Zalaia GNM  
 on 31/10/2013 noon of \_\_\_\_\_

- 4. Recoveries are to be made from the pay of the Government servant as detailed on the reverse.
- 5. He has been paid leave salary as detailed below Deductions have been made as noted on the reverse.

| Period              | Rate        | Amount  |
|---------------------|-------------|---------|
| From _____ to _____ | at Rs _____ | a month |
| From _____ to _____ | at Rs _____ | a month |
| From _____ to _____ | at Rs _____ | a month |

- 6. He is entitled to draw the following:-
- 7. He is also entitled to joining time for \_\_\_\_\_ days.
- 8. The detailed to the Income-tax- recovered from him up to the date from the beginning of the current year noted on the reverse.

No 2188 Dated 18/11/2013  
 Dated at \_\_\_\_\_ 20\_\_\_\_  
 District Education Officer  
 (Male) Lakhi Marwat

(Signature) \_\_\_\_\_  
 (Signature) \_\_\_\_\_  
 Agency Education Officer  
 S.W.A. Tank

*[Handwritten signature]*  
 SGT BPS-1  
 GHSS Serai Naurang  
 (Distt: Lakhi Marwat)  
 Agency Education Officer  
 S.W.A. Tank



**OFFICE OF THE DISTRICT EDUCATION OFFICER**  
**(MALE) LAKKI MARWAT**  
 Phone No: 0969-709234 - Fax No: 0969-538291

No. 5079

Dated. 19/11/2014

To,

The Director  
 Elementary & Secondary Education  
 Khyber Pakhtunkhwa Peshawar.

Subject:- VERIFICATION OF TRANSFER ORDER.

Memo:-

It is submitted that the Ex-EDO (E&SE) Lakki Marwat, has given N.O.C on the original applicant of the below named teacher regarding his transfer from FATA to District Lakki Marwat, and his transfer order has been issued.

Detail is given as under:-

| S#  | Order No. & date       | Name        | Designation. | Remarks  |
|-----|------------------------|-------------|--------------|----------|
| ii. | 1765-93 dt. 30-09-2013 | Hazrat Umar | PST          | Transfer |

Hence the transfer order is submitted for favoring of verification.

District Education Officer  
 (Male) Lakki Marwat.

No. 1284

For Insurance Notices see reverse.  
 Stamps affixed except in case of  
 uninsured letters of not more than  
 the initial weight prescribed in the  
 Post Office Guide or on which no  
 acknowledgement is due.

Received a registered\*  
 addressed to \_\_\_\_\_ Date/Stamp \_\_\_\_\_

*Verified*

*Deputy District Education Officer  
 (Male) Lakki Marwat*

*15/11*

*Attested*

**SCT BPS-16**  
**GHSS Serai Naurang**  
**Distt: Lakki Marwat**

24

"E"

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) LAKKI MARWAT

No. 51

Dated: 05-01-2015

To

Sub-Divisional Education officer

(Male) Lakki Marwat

Subject:- TRANSFER

Memo:-

It is to inform you that Mr: hazrat Umar PST GPS Zali (SWA) has been transferred vide order No 1765-93 Dated 30/09/2013 issued by the Director (E&SE) Khyber Pakhtunkhwa Peshawar. (Photocopy Enclosed).

The Above transfer order was submitted for favor of verification and the Elementary & Secondary Education has intimated that the order issued vide No and dated cited above is correct and verified vide No 5815 dated 03-12-2014. Copy Enclosed

At present there is no vacancy in GPS mash masti Khani hence, the above mentioned Teacher is adjusted at GPS Nar taj Muhammad against vacant post.

This pay is hereby released after the observing all codal formalities.

*Verdiana*  
Deputy District Education Officer  
(Male) Lakki Marwat  
15/14

*[Signature]*  
District Education Officer  
(Male) Lakki Marwat  
4  
15/11

Endst No :-  
Copy to the

- 1. Director (E&SE) with reference to his Leter No 5815 Dated. 03/12/2014.

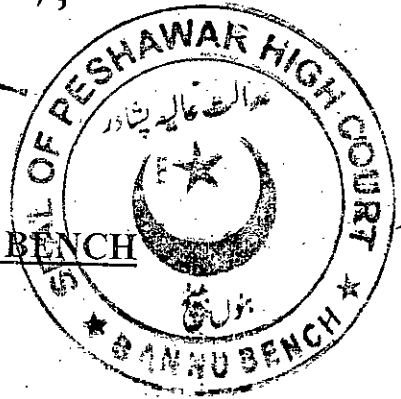
*[Signature]*  
District Education Officer  
(Male) Lakki Marwat

*Attested*  
*[Signature]*  
SCT BPS-16  
GHSS Serai Naurang  
Distt:Lakki Marwat



(25)

(F)



IN THE PESHAWAR HIGH COURT BANNU BENCH  
BANNU

Writ Petition No. 94-B / 2015

Hazrat Umer S/O umer Khan residents of Kotka Nar Hafiz Abad Post office Naurang Kotka Dheri naurang Tehsil and district Lakki Marwat (presently transferred as PTC to Government Primary School, Mush Masti Khani Lakki Marwat..from GPS Zalayee South Waziristan Agency.....(Petitioner)

**Versus**

1. Government of Khyber Pukhtun Khwa, through its Secretary (Primary ) Educating department Civil Secretariat Peshawar
  2. Director ( Primary ) Education Government of Khyber Pukhtun Khwa Peshawar.
  3. The District Education Officer Lakki Marwat,
  4. Sub Divisional Educatin officer (Primary ) (M) Lakki marwat,
  5. District Accounts Officer,Lakki Marwat
- .....(Respondents)

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

**P R A Y E R :-**

On acceptance of this petition, the respondent-4 may very kindly be directed to accept the assumption report/arrival report of the petitioner as PTC against the vacant post, i.e GPS Mush Masti Khani. in light of transfer order No.1765-93 dated 30-9-2013 passed by Director ( Elementary and Secondary ) Education Peshawar or at any other vacant post in light of subsequent order of DEO (M) Primary Lakki Marwat addressed to SDEO, Lakki

*Handwritten note:* 24

Filed To  
16 FEB 2015  
Additional Registrar

**ATTESTED**  
EXAMINER  
Peshawar High Court,  
Bannu Bench

26

3

Marwat (respondent No.4), with further direction that the salary of the petitioner may also be released w.e.f 03-11-2013 Or any other relief deemed fit and appropriate by this august court in favour of the petitioner.

**INTERIM RELIEF**

Interim relief in shape releasing the salary of the petitioner from the date of assuming of charge of the petitioner as PTC at vacant post after the result of inquiry which has been proved on facts and also directed not to refuse the charge of assumption report from the petitioner at vacant post, till final disposal of the Writ petition.

**Respectfully Sheweth:**

The petitioners respectfully submit as under:-

1) That the petitioner is bonafide resident of Tehsil and district Lakki Marwat.

1) That the petitioner was posted as PTC teacher in the Government Primary School Zalai North Waziristan Agency, and after submission of charge report/ arrival report, performed his duties with zeal and zest for the last few years. (Photo copies of charge report, medical fitness certificate and last Pay certificate are annexed herewith as annexure "A").

2) That on mutual transfer, the petitioner was transferred by the Director Education Primary KPK, Peshawar (respondent No.2) from GPS Zalai North Waziristan Agency to GPS Mush Masti Khani Lakki Marwat. ( Photo copies of application and mutual transfer

Mr. Shams

**ATTESTED**  
EXAMINER  
Peshawar High Court,  
Bannu Bench

Filed  
Additional Registrar

27  
3

order of respondent No.2 (Director (E&S) Education Peshawar are annexed herewith as annexure "B" and B-1 respectively.

3) That vide letter No.51 dated 05-01-2015, DEO (M) Primary Lakki marwat ( respondent No.3) conducted inquiry and investigation regarding mutual transfer order and also vacant post of the mentioned schools, and after inquiry it was found that the mutual transfer order is based upon the public interest and is also according to law and rules, so the respondent no.3 (DEO, Lakki marwat) passed an order in this connection as above. ( Copy of order No.51 dated 5.1.2015 is annexed herewith as annexure "C").

4) That after receipt of the copy, the petitioner arrived at the relevant school as mentioned in the letter No.51 dated 05/01/2015, but the SDEO Lakki (respondent no.3) refused to accept the arrival of the petitioner and assuming of charge. The petitioner requested time and again to provide legal facility in this regard but he flatly refused to comply with the order as above.

5) *That* being deprived, rather harassed and feeling aggrieved and having no other efficacious remedy, the petitioner has approached before this Honourable court for his redressal of his grievance, inter alia on the following grounds:-

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Red Ticker  
A

**ATTESTED**  
EXAMINER  
Peshawar High Court,  
Bannu Bench

28

4

GROUNDS

- (a) That keeping in view the transfer order of Director (E&S) Education KPK Peshawar and subsequent transfer order of DEO (M) Primary School, Lakki Marwat and that too, after its verification, the respondent No.4 ( SDEO Lakki Marwat) is legally bound to comply with the said order but with malafide intention and for ulterior motives, he is denying to comply with the same which is un warranted and highly objectionable under the law,
- (b) That the petitioner has performed his duty in GPS Zalai SWA having unblemished record and being far-flung area and deteriorated law and order situation, the petitioner has faced by too much faced hurdles and difficulties being the reisdnece of Dikstrict Lakki Marwat bu in the same time, but in the same, he has performed his duty honestly.
- (c) That after mutual transfer of the petitioner by the Director Education, District Education Officer (M) Primary Schools conducted inquiry regarding transfer order and vacant post at the concerned district which was completed in favour of the petitioner and vacant post was also found in the district Lakki Marwat which

See -  
W/S 2000

**ATTESTED**  
EXAMINER  
Peshawar High Court,  
Bannu Bench

LA

has been mentioned in the inquiry letter, already annexed as above.

- (d) That after fulfillment and completion of code formalities, the petitioner arrived to the office of the respondent no.4 (SDEO),Lakki to accept the assumption charge but he flatly refused to recommend in respect of salary of the petitioner.
- (e) That the petitioner under the law and under the constitutional rights entitled to take charge of the transferee school and also to release his salary, but denial of the respondent is clear cut violation of constitutional rights of the petitioner which has also been curtailed by illegal act of the respondeent No.4.
- (f) That the petitioner seeks permission of this Honourable Court to rely and advance additional grounds at the time of hearing of this petition.

It is, therefore, humbly prayed that on acceptance of this Writ petition, the respondent-4 may very kindly be directed to accept the assumption report/arrival report of the petitioner as PTC against the vacant post, i.e GPS Mush Masti Khani in light of transfer order No.1765-93 dated 30-9-2013 passed by Director ( Elementary and Secondary ) Education Peshawar or at any other vacant post in light of subsequent order of DEO (M) Primary Lakki Marwat addressed to SDEO, Lakki Marwat (respondent

in the case

11.07.13  
18  
Additional Registrar

ATTESTED  
EX-100-100  
Peshawar High Court  
Bannu Bench

30

No.4), with further direction that the salary of the petitioner may also be released w.e.f 03-12-2013 Or any other relief deemed fit and appropriate, by this august court in favour of the petitioner.

**INTERIM RELIEF**

Interim relief in shape releasing the salary of the petitioner from the date of assuming of charge of the petitioner as PTC at vacant post after the result of inquiry which has been proved on facts and also directed not to refuse the charge of assumption report from the petitioner at vacant post, till final disposal of the Writ petition.

\_Dated \_\_\_/2/2015

Hazrat Umer Petitioner

**Through counsel**

*Muhammad Younis Ali Wazir*

**Muhammad Younis Ali Wazir,  
advocate High court Bannu)**

**CERTIFICATE**

This is to certify that no other such like petition is filed or pending disposal before any other forum or before this august court except the instant petition, as per information conveyed by my Clients.

**LIST OF BOOKS**

*Muhammad Younis Ali Wazir*  
Advocate

- a) Constitution of Islamic Republic of Pakistan, 1973,
- b) C.P.C
- c) Case law according to need.

**ATTESTED**  
*Muhammad Younis Ali Wazir*  
Peshawar High Court  
Bannu Bench

*Muhammad Younis Ali Wazir*

31

AFFIDAVIT

I, Muhammad Younis Ali Wazir Advocate, on behalf of the petitioner, as per his information, conveyed to me, do hereby solemnly affirm and declare on oath that the contents of instant Writ petition are true and correct to the best of my knowledge and nothing has been concealed or kept secret from this Honourable court.

(Deponent)

h d writ  
about  
16/2/15

No 337

Certified that the above was verified on solemnly affirmation before me on the 18th

day of Feb 15 Muhammad Younis Ali

at Adv Bannu wazir

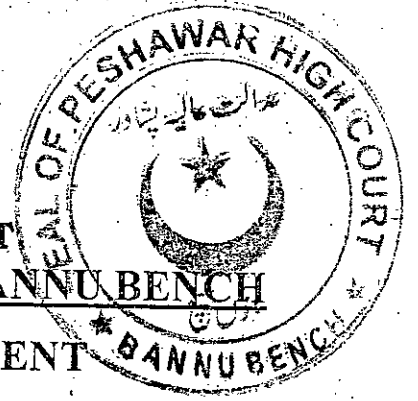
who was known to me as self

~~who is personally known to me~~

*[Signature]*  
Oath Commissioner  
Peshawar High Court  
Bannu Bench

**ATTESTED**  
*[Signature]*  
EXAMINER  
Peshawar High Court  
Bannu Bench

*[Signature]*



**JUDGMENT SHEET**  
**PESHAWAR HIGH COURT, BANNU BENCH**

**JUDICIAL DEPARTMENT**

**Writ Petition No.94 -B/2015**

**JUDGMENT**

Date of hearing.....06.05.2015.....

Petitioner(s).....*Hazrat Umer by Mr. Younis Thaheem*.....

Respondent(s).....*/ / /*.....

**MUHAMMAD YOUNIS THAHEEM, J.-** Hazrat

Umer, the petitioner, seeks constitutional jurisdiction of this Court praying:

*"On acceptance of this petition, the respondent No.4 may very kindly be directed to accept the assumption report/ arrival report of the petitioner as PTC against the vacant post i.e. GPS Mush Masti Khani in light of transfer order No.1765-93 dated 30.09.2013 passed by Direction (Elementary and secondary) Education Peshawar or at any other vacant post in light of subsequent order of DEO (M) Primary Lakki Marwat addressed to SDEO, Lakki Marwat (respondent NO.4) with further*

*Free*  
*SR*  
*2*

**ATTACHED**  
**EXAMINER**  
**Peshawar High Court**  
**Bannu Bench**



*direction that the salary of the petitioner may also be released w.e.f 03.11.2013 or any other relief deemed fit and appropriate by this august court in favour of the petitioner.*

2. Admittedly, the petitioner serving as PST in Education Department and is Civil Servant and the matter of transfer, adjustment and release of salary squarely falling under the terms and conditions of service, as such, the matter comes within the domain of Service Tribunal. The constitutional jurisdiction of the High Court, in such like matters, is ousted by explicit provision of Article 212 of the Constitution. Even if, the transfer, adjustment and the order of stoppage of salary are passed on the basis of mala fide, corum non iudice or in violation of any rules, the same could only be challenged before the Service Tribunal. It has been settled by the Apex Court time and again that the matter regarding terms and conditions of service, could not be agitated before the High Courts, through constitutional petition under Article 199 of the Constitution. Article 212 of the Constitution,

ATTESTED  
EXAMINER  
Peshawar High Court  
Barani Bench

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(29)

DIRECTOR OF ELEMENTARY & SECONDARY EDUCATION KHYBER PAKHTUNKHWA  
PESHAWAR

OFFICE ORDER

Consequence upon the approval of the competent authority the following transfer/adjustment are hereby order on their own pay and BPS No in the interest of the public services with immediate.

| S/No | Name         | Designation | From                  | To                                | Remarks            |
|------|--------------|-------------|-----------------------|-----------------------------------|--------------------|
| 1    | Hazrat Umer  | PTC         | GPS Zalai SWA         | GPS Mush Masti Khani Lakki Marwat | Against the vacant |
| 2    | Kaleem Ullah | PTC         | GPS Toora Wari Mangul | GPS Zalai SWA                     | Vice S.No.1        |

NOTE

- 4- Charge report should be submitted to all concerned
- 5- No TA DA is allowed.
- 6- Principal/Headmaster concerned are directed to check their original service book/documents before making payment salaries.

H/T/Ends

Handwritten signature and scribbles

Endst No. 1705-93 /File No A-10 / PTC

Copy to:

1. District Education officer (Male ) concerned.
2. Agency Education Officer concerned.
3. District Account Officer concerned.
4. Principal /Headmaster concerned.
5. PS to Minister for Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
6. PS to Director of Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
7. PS to Director of FATA Khyber Pakhtunkhwa Peshawar.
8. Master file.

DIRECTOR

Elementary & Secondary Education  
Khyber Pakhtunkhwa ,Peshawar

Dated Peshawar the 30/9/2013

Deputy Director (Establishment)  
Elementary & Secondary Education  
Khyber Pakhtunkhwa ,Peshawar

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کھنڈر فاب ڈائریکٹر صاحب کی خدمت میں سب سے پہلے عرض ہے کہ

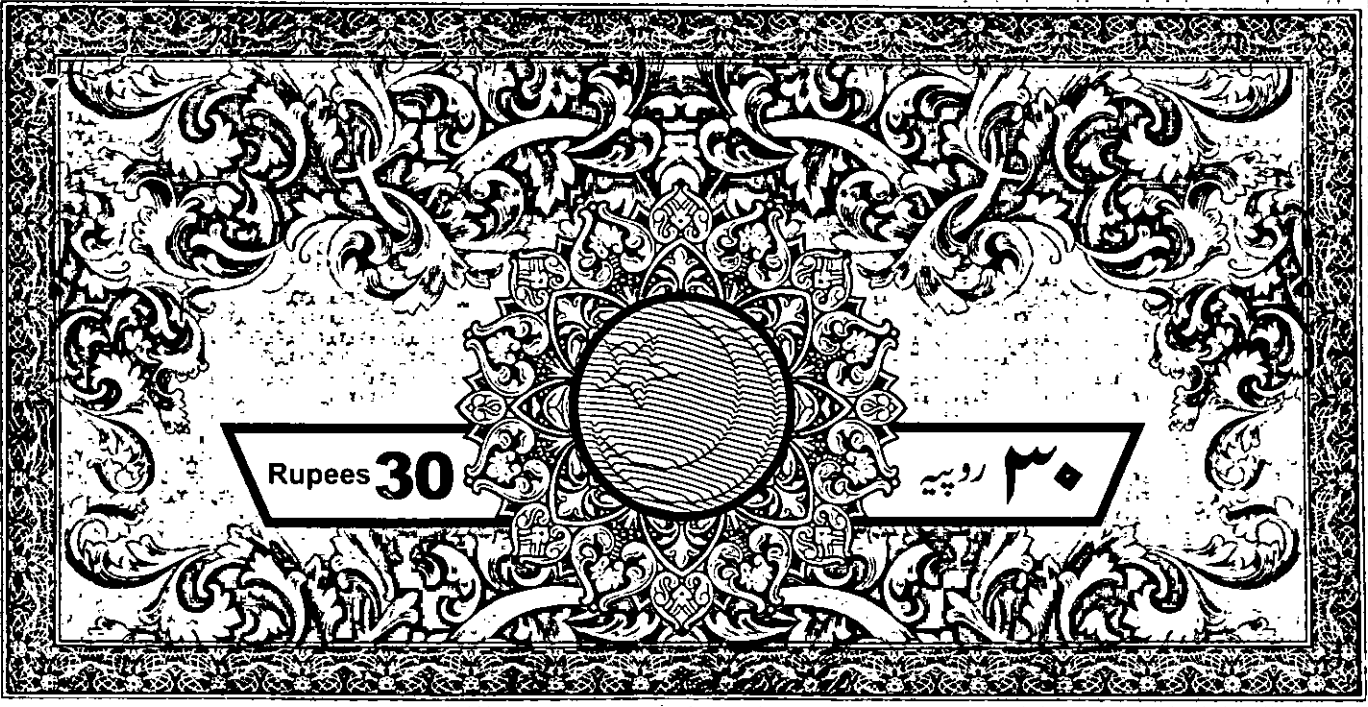
صاف حال  
مفتون - اپیل

گزارش ہے کہ سائل کی تبدیلی آپ صاحب  
التی و ذبیحہ سے قبل ہی صورت میں کرنی  
سائل کی اس امر سے پہلے ہی کہیں گیا۔ انہوں  
نے میری تمام سروس ڈاؤنٹینس منتقلی  
دفتار سے لے کر آرا میری اپنی حیثیت  
کو سہ سہ سہ کی ہے دھیرے دھیرے پورا کرنا  
میں لگا۔ اب SDEO صاحب نے نہ میری تنخواہ پورا  
کرائے اور نہ میرے سائل میں صلہ مشورے

مجموعاً ہے  
آپ سے اس کے بارے میں SDEO صاحب کو  
کو پورا نہ فرمایا گیا ہے نہ میری تنخواہ پورا کر لیں  
اور مجھے سائل میں اپنی ڈیوٹی کرے دیں

مستور رسید کا  
نوٹ: سائل DEO صاحب کو بھیج دیا گیا ہے مورخہ 10/12/15  
الکاحیہ  
حضرت عیسیٰ علیہ السلام

ع



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

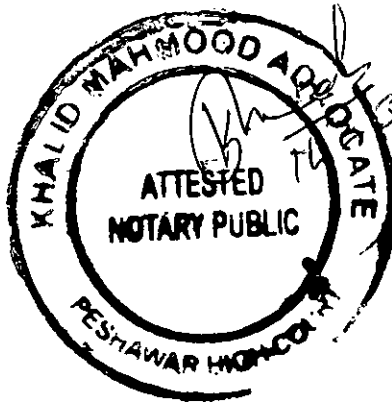
Service Appeal No. \_\_\_\_\_ / 2016

Hazrat Umar .....Versus ..... Govt. of KPK etc.

A F F I D A V I T

I, Hazrat Umar sonof Haji Umar Khan, resident of Kotka Nar Hafis Abad, Tehsil Serai Naurang, District Lakki Marwat do hereby declare on oath that I have filed departmental appeal against the imugned action of respondent6 for non-payment of salary thereafter I filed writ petition No. 94-B/2015 which was dismissed on the ground of jurisdiction. (Copy of appeal is in possession of respondent and is not available with me. I have not concealed any facts from this Tribunal.

Dated 14-03-2016



*Hazrat Umar*  
Deponent

14/16 03

مفردت  
مجلس  
مجلس

TREASURY OFFICE  
M. J. J.

—

1802

**BEFORE THE SERVICE TRIBUNAL GOVT. OF KHYBER PAKHTUNKHWA  
PESHAWAR**

**Service Appeal No. 343/2016**

Hazrat Umer S/o Umer Khan R/o Kotka Nar Hafiz Abad PO Naurang Dheri Tehsil  
Naurang District Lakki Marwat

.....Appellant

Versus

Govt. of Khyber Pakhtunkhwa through Chief Secretary & four others

.....Respondents

**Joint para wise comments on behalf of respondents**

**Respectively Sheweth;**

**Preliminary Objection:**

- 1). That the appellant has no cause of action and locus standi to bring the present appeal.
- 2). That the appeal of the appellant is not maintainable as the present appellant is not a civil servant as evident from his Service Book.
- 3). That the appellant has not come to the Tribunal with clean hands as he conceal material facts like nature of his appointment, post availability at Lakki, taking over charge, LPC dully countersigned from Agency Account Officer NWA Tank etc.
- 4). That appeal of the appellant is bad for mis-joinder and non-joinder of necessary parties as he purposely not made Director Education FATA, AEO FR Tank & SWA Agency Accounts officer in the panel of Respondents.
- 5). That PHC Bannu Bench has dismissed the W.P. No. 94-B/15 lodged by the present appellant on 06-05-2015. (Copy of the Writ is annexed as Annexure "A")

**FACTS:-**

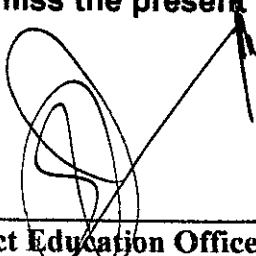
1. First part of the para is incorrect as how he got FATA domicile, the rest of the para relates to Director Education FATA & Agency Education Officer FR Tank.
2. Incorrect. In mutual transfer two teachers are necessary but in the instant case no teacher has mutually transferred to FATA. Moreover, DEO has no competency for transfer to or from FATA to settled area. The rest of the para

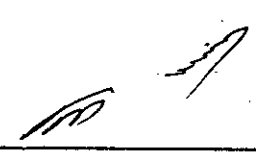
- 6). The first part being legal in nature therefore no comments, the rest of the para is denied.

**GROUND:-**

- A. Incorrect and concocted, hence denied.
- B. Incorrect and concocted, hence denied.
- C. correct to the extent that all individuals are entitled for equal protection of law the rest of the para is denied.
- D. As per para NO.1
- E. As per Para NO.1
- F. Incorrect. Appointment order of the appellant whether disputed or not is encumbrance on Director Education FATA the rest of the para is denied as SDEO has no such powers to accept transfer directly from FATA to settled area where every supporting document produced by the appellant is not verifiable.
- G. Respondents also reserve their right to raise additional grounds at the time of arguments before the Honourable Service Tribunal.

It is therefore humbly prayed that on acceptance of these para-wise comments this Honourable Service Tribunal may very graciously be pleased to dismiss the present appeal with costs throughout.

  
 District Education Officer(M)  
 Lakki (Respondent NO.4)

  
 Director(E&SE)  
 (Respondent NO.3)  
 Director  
 Elementary & Secondary Education  
 Khyber Pakhtunkhwa Peshawar

  
 Secretary (E&SE) KPK  
 (Respondent NO.2)

JUDGMENT SHEET  
PESHAWAR HIGH COURT, BANNU BENCH

JUDICIAL DEPARTMENT

Writ Petition No.94 -B/2015

JUDGMENT

Date of hearing.....06.05.2015.....

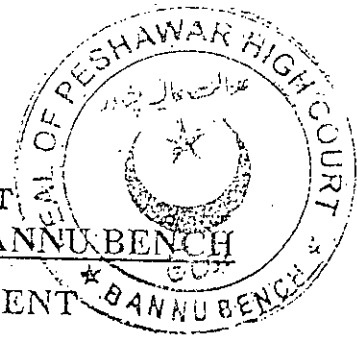
Petitioner(s) *Hazrat Umer by Mr. Younis*

Respondent(s) *1/1/1*

MUHAMMAD YOUNIS THAHEEM, J.- Hazrat

Umer, the petitioner, seeks constitutional jurisdiction of this Court praying:

*“On acceptance of this petition, the respondent No.4 may very kindly be directed to accept the assumption report/ arrival report of the petitioner as PTC against the vacant post i.e. GPS Mush Masti Khani in light of transfer order No.1765-93 dated 30.09.2013 passed by Direction (Elementary and secondary) Education Peshawar or at any other vacant post in light of subsequent order of DEO (M) Primary Lakki Marwat addressed to SDEO, Lakki Marwat (respondent NO.4) with further*



*Handwritten signature and stamp:*  
 RECEIVED  
 PESHAWAR HIGH COURT  
 BANNU BENCH



*direction that the salary of the petitioner may also be released w.e.f 03.11.2013 or any other relief deemed fit and appropriate by this august court in favour of the petitioner.*

2. Admittedly, the petitioner serving as PST in Education Department and is Civil Servant and the matter of transfer, adjustment and release of salary squarely falling under the terms and conditions of service, as such, the matter comes within the domain of Service Tribunal. The constitutional jurisdiction of the High Court, in such like matters, is ousted by explicit provision of Article 212 of the Constitution. Even if, the transfer, adjustment and the order of stoppage of salary are passed on the basis of mala fide, coram non iudice or in violation of any rules, the same could only be challenged before the Service Tribunal. It has been settled by the Apex Court time and again that the matter regarding terms and conditions of service, could not be agitated before the High Courts, through constitutional petition under Article 199 of the Constitution. Article 212 of the Constitution,

ATTESTED  
EXAMINER  
Peshawar High Court  
Bamby Bench

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explicitly bars the jurisdiction of the High Courts in the matters exclusively triable by the Service Tribunal.

3. For the reasons discussed above, this petition being not maintainable, stands dismissed in limine.

Announced.  
Dt.06.05.2015.

Sd/- Ikramullah Khan, J

Sd/-Muhammsd Younis Thaheem, J

CERTIFIED TO BE TRUE COPY  
J. 11/8/2-15  
Examiner  
Peshawar High Court Bannu Bench  
Authorised Under Article 87 of  
The Qanun-e-Shahadat Order 1984

30/7

Before the Services Tribunal Khyber Pakhtunkhwa Peshawar in respect of respondent  
No.6 District Accounts Officer Lakki Marwat. Comments in appeal No. 343/2016

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Hazrat Umer son of Umar Khan R/O Kotka Nar Hafiz Abad, PO Naurang Tehsil &  
District Lakki Marwat ..... Petitioner

Versus

Comments on behalf of respondent No.6  
District Accounts Officer, Lakki Marwat & others ..... Respondents

**Preliminary Objection**

- 1- That the appellant has not got any cause of action.
- 2- That the appellant has got no locus standi
- 3- That the appellant is liable to be dismissed due to misjoinder and non joinder of necessary parties.
- 4- That the instant appeal is barred by law.
- 5- That the instant appeal is not maintainable in its present form.
- 6- That there is no final order as required by 5.4 of the services Tribunal Act 1974

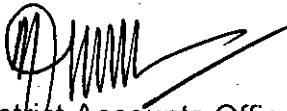
**Facts**

- 1- True
- 2- Relates to parent department hence no comments
- 3- Relates to parent Department
- 4- No Comments as pertains to Respondent No.5
- 5- The Para related to court record
- 6- Relates to Education Department. Hence, no comments.

**Grounds**

- a) Relates to respondent No. 4&5. Hence, no comments.
- b) Stoppage of pay is administrative nature if released by the Competent Authority will be honoured by this office.
- c) Incorrect, the respondents acted in accordance with law and fact.
- d) As per Para – "c"
- e) Transfer/ posting is the responsibility of the respondent No.4. Hence, no comments.
- f) Transfer, posting and acceptance of arrival report is the responsibility of respondents No.4&5. Hence, no comments.
- g) No comments

It is therefore, most humbly prayed that on acceptance of these Para-wise comments, the appeal in hand may very graciously be dismissed with cost

  
District Accounts Officer,  
Lakki Marwat.

**Affidavit**

I solemnly affirm and declare on oath that all the comments in the reply are true and correct to the best of my knowledge and belief as per available record and nothing has been concealed from the honourable Tribunal.

  
District Accounts Officer,  
Lakki Marwat.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

Service Appeal No. 580/2013

Date of Institution... 28.03.2013  
Date of decision ... 07.07.2017



Gohar Iqbal, Junior Clerk (BPS-7),  
O/O the Political Agent North Waziristan Agency.

... (Appellant)

Versus

1. The Additional Chief Secretary FATA, FATA Secretariat, Warsak Road Khyber Pakhtunkhwa Peshawar.
2. The Director, Food Department Khyber Pakhtunkhwa, Peshawar.
3. The District Food Controller, District Bannu.
4. The Political Agent North Waziristan Agency.

..... (Respondents)

MR. MUHAMMAD HAMID MUGHAL, ...  
MR. GUL ZEB KHAN, ...

MEMBER (JUDICIAL)  
MEMBER (EXECUTIVE)

07.07.2017


JUDGMENT

**ATTESTED**

MUHAMMAD HAMID MUGHAL, MEMBER: - Learned

counsel for the appellant present. Learned Deputy District Attorney for the respondents present.

2. Gohar Iqbal, Junior Clerk has filed the present appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against respondents for issuance of directions to the respondents to allow the appellant to submit his charge report as Junior Clerk


  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

in the office of Political Agent North Waziristan Agency at Miranshah and for the release/grant of the monthly salary of the appellant with effect from 10.04.2009 till date.

3. Brief facts of the case are that the appellant was appointed as Junior Clerk in Food Directorate/Food Department Khyber Pakhtunkhwa and posted in the office of District Food Controller Bannu and on the verbal order of the Minister Food Khyber Pakhtunkhwa he was transferred in the office of Political Agent North Waziristan Agency at Miranshah vide order of Director Food Khyber Pakhtunkhwa dated 07.09.2012. However, when the appellant approached the Political Agent Office at Miranshah for assumption of charge, the Political Agency (Respondent No. 4) refused to receive charge report from the appellant.

4. Learned counsel for the appellant contended that the appellant who was appointed as a Junior Clerk in the Food Department was validly transferred to the office of Political Agent North Waziristan Agency at Miranshah vide order dated 07.09.2012 of Director Food Khyber Pakhtunkhwa Peshawar further contended that the post against which the appellant was transferred reflects in the budget book against the strength of Food Department Khyber Pakhtunkhwa and hence the political agent North Waziristan Agency is bound to accept the charge report from the appellant.

**ATTESTED**

  
**EXAMINER**  
 Khyber Pakhtunkhwa  
 Service Tribunal,  
 Peshawar


27/09/12

5. On the other hand learned counsel on behalf of Political Agent North Waziristan Agency at Miranshah (Respondent No. 4) opposed present appeal mainly on the ground that under the posting/transfer policy of Government, prior to the posting/transfer of official up to BPS-17 from settled area to FATA and vice versa the NOC/approval of Chief Secretary Khyber Pakhtunkhwa needs to be obtained, however in the case of appellant the concerned department has not procured any approval/NOC as required. Hence, the transfer order dated 07.09.2012 has no legal value and the respondent No. 4 has rightly refused to accept charge report from the appellant.

6. Arguments of learned counsel for the appellant, learned Deputy District Attorney and learned counsel for respondent No. 4 heard. File perused.

7. Perusal of Para-VI of posting/transfer policy of the Provincial Government shows that while making posting/transfer of officers/officials up to BS-17 from settled area to FATA and vice versa approval of Chief Secretary Khyber Pakhtunkhwa needs to be obtained. Admittedly the Director Food Khyber Pakhtunkhwa Peshawar has not observed the above mentioned required/prescribed formality/procedure before the issuance of the transfer order of the appellant from the settled area to FATA date 07.09.2012.

**ATTESTED**

  
**EXAMINER**  
 Khyber Pakhtunkhwa  
 Service Tribunal,  
 Peshawar

8. There is no cavil to the proposition that where ~~the~~ law or rules/policy made there under, requires that an act is to be done in a particular manner then it has to be done in that manner.

9. In light of the above scenario the transfer order regarding the appellant dated 7.09.2012 cannot be termed as valid.

10. It appears that the Director Food Khyber Pakhtunkhwa is still adamant to by pass Government instructions.

11. As a sequel to above the present appeal being meritless, is hereby dismissed. Parties are left to bear their own costs. Copy of this judgment be sent to Director Food Khyber Pakhtunkhwa Peshawar for necessary action, if any. File be consigned to the record room.

Announced  
07-07-2017

*sd/- M. Hamid Nizhal*  
*Number*

*sd/- Gulzar Khan*  
*Number*

**Certified to be true copy**  
**REGISTRAR**  
**Khyber Pakhtunkhwa**  
**Service Tribunal,**  
**Peshawar**

|                                     |                    |
|-------------------------------------|--------------------|
| Date of Presentation of Application | <u>01-03-18</u>    |
| Number of Warrants                  | <u>1600</u>        |
| Copying Fee                         | <u>10.00</u>       |
| Urgent                              | <u>2.00</u>        |
| Total                               | <u>12.00</u>       |
| Name of Copyist                     | <u>[Signature]</u> |
| Date of Completion of Copy          | <u>01-03-18</u>    |
| Date of Delivery of Copy            | <u>01-03-18</u>    |

343/16

رہنما

باجت تحریرہ رینڈم سٹیٹو اینڈ ہزار

رہنما 1600 روپے نقد زر اس کے نتیجے

کے وصول بہت پرمانہ SANO 343/2016

آر آر مورخ 2/3/2017 کو وصول کیے

سے سٹیٹو رہنما سند (2)

صورت ع  
H.A. D.

SANO 343/2016

صورت 2/3/2017

Attest  
09.03.17



انجلیز 17-6-19 کو اپیلز 343/16

صورت عمر بنج ایچ آر میں مبلغ -/3000

جرمانہ وصول کیا اس کے دی تاکہ ساری

Appellant

صورت عمر

HAF  
Jafar