

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

Service Appeal No. 2589 /2023

**Muhammad Yasin Shah** Versus


**Government of Khyber Pakhtunkhwa, etc.**

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**Dated:** .12.2023

**Your humble appellant:**

  
(Muhammad Yasin Shah)  
SDEO (M) SD, Sarwakai,  
District South Waziristan.  
Through counsel

  
(Ahmad Abu Hanifa)  
Advocate High Court.

SCANNED  
KPST  
Peshawar

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

Service Appeal 2589/2023

Muhammad Yasin Shah TC BS-17, SDEO (M) SD, Sarwakai, District South Waziristan

(Appellant)

Versus

1. Government of Khyber Pakhtunkhwa through Secretary Education Department, Khyber Pakhtunkhwa, Peshawar.
2. Chief Secretary Government Of Khyber Pakhtunkhwa'
3. Director, Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar.

(Respondents)

**APPEAL U/S 4 OF THE KPK SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 09-08-2023 WITH THE REQUEST TO CANCEL WITHDRAW THE NOTIFICATION NO SOMG ROSEEDZB-202 /POSTING/TRANSFER/SW DATED 09.08.2023 ISSUED BY SECTION OFFICE (MANAGEMENT CADRE) VIDE WHICH THE NOTIFICATION NO.SO(MC)E&SE/4- 16/202/POSTING/TRANSFER SW DATED 24.07.2023 WAS CANCELLED/WITHDRAWN WITHOUT ANY LAWFUL AUTHORITY.**

**Respectfully Sheweth,**

The appellant prefers the instant petition on the grounds hereinafter submitted apropos the following facts.

(Note:- The addresses of respondents as given above are sufficient for the purpose of service.)

**BRIEF FACTS**

1. That the appellant has been serving in the Education Department at Upper Waziristan TC (BPS-16) and always performs his duties with zeal and zest and to the satisfaction of the superiors and did not the leave any stone unturned towards his duties and obligations. In this respect service record of the appellant is very much evident.
2. That the appellant, during the service tenor have diligently perform the duties in the far flung and hard areas of Tribal District South Waziristan. That the appellant was serving as SST at GMS Poi Khel, Shamirai South Waziristan and was transferred from the said school as SDEO (M) SD Ladha South Waziristan vide notification No. SO(MC)E&SED/4-

16/2023/posting/transfer/SW dated 24.07.2023. copy of notification dated 24.07.2023 is enclosed herewith as Annexure-A.

3. That the appellant was performing his duties against the above mentioned post diligently and dedicatedly but ironically the section office (Management Cadre) issued the impugned political base notification dated 09.08.2023 vide which the notification dated 24.07.2023 was cancelled/withdrawn without any lawful justification. Copy of impugned notification dated 09.08.2023 is enclosed herewith as Annexure-B.
4. That thereafter the appellant preferred departmental appeal/representation against the impugned notification dated 09.08.2023 through proper channel. Copy of the Departmental Appeal/representation is enclosed herewith as Annexure-C.
5. That no order was passed with regards to the departmental appeal/representation of the appellant hence after expiry of 90 days the appellant approaches this Honourable Tribunal for the redressal of his grievances on inter-alia the following grounds.

**GROUND:**

1. That the impugned notification dated 09.08.2023 is premature, illegal, against service laws and policy, hence is liable to be cancelled.
2. That as per policy, the posting tenure is presumed to be of minimum three years but in the instant case the transfer of the appellant is cancelled only after few days (17 days) which clearly reveals that the appellant is politically victimized.
3. That the impugned notification dated 09.08.2023 has been issued just after 17 days which is premature and issued only under political influences hence on this sole ground the impugned transfer order is liable to be set aside.
4. That no prior notice was issued to the appellant nor any prior information was delivered and no reason whatsoever was given in the impugned notification for the withdrawal of the earlier notification.
5. That there has never been any complaint of any kind instituted against the appellant in the entirety of his professional career which speaks volume of the professionalism of the appellant.

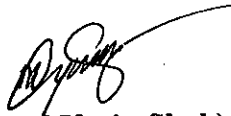
- 6. That the counsel for the appellant may be allowed to raise additional grounds during the course of arguments.

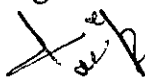
**PRAYER:-**

It is therefore, humbly prayed that the impugned politically based notification dated 09.08.2023 may kindly be set aside and appellant may kindly be allowed to perform his duties as SDEO (M) SD, Ladha, South Waziristan till completion of his legal tenure of three years in the interest of justice and fair play.

Your humble appellant:

Dated: .12.2023


  
 (Muhammad Yasin Shah)  
 SDEO (M) SD, Sarwakai,  
 District South Waziristan.  
 Through counsel

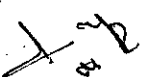
  
 (Ahmad Abu Hanifa)  
 Advocate High Court.

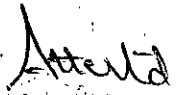

**AFFIDAVIT**

I, Muhammad Yasin Shah, TC BS-17, SDEO (M) SD, Sarwakai, District South Waziristan, appellant do hereby solemnly affirm on Oath that the contents of the petition are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Tribunal.

Dated 12.2023

  
 Deponent.  
 (Identified by)

  
 (Ahmad Abu Hanifa)  
 Advocate High Court.

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

Misc: Application No. \_\_\_\_\_/2023

In Service Appeal No. \_\_\_\_\_/2023

Muhammad Yasin Shah

**Versus.**

Govt: Khyber Pakhtunkhwa etc.

**APPLICATION WITH THE REQUEST TO SUSPEND THE OPERATION  
OF NOTIFICATION DATED 09.08.2023 REGARDING THE TRANSFER  
OF APPELLANT TILL FINAL DISPOSAL OF THE MAIN SERVICE  
APPEAL**

**Respectfully Sheweth: -**


1. That the afore-titled service appeal is being filed before this Honourable Tribunal along with the instant application.
2. That the main controversy is regarding pre-mature transfer of the appellant, which is against the law and policy of the government, which is being challenged in the main service appeal.
3. That the appellant has not yet relinquished the charge and also has not taken over the charge at the new place of posting.
4. That this Honourable Tribunal has got vast powers to suspend the operation of impugned notification to the extent of appellant to meet the ends of justice.

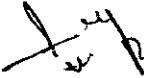
**PRAYER:**

It is therefore, requested that the operation of impugned notification dated 09.08.2023 may be suspended to the extent of appellant only till final disposal of main appeal.

Dated: .12.2023

Your humble appellant:

  
(Muhammad Yasin Shah)  
SDEO (M) SD, Sarwakai,  
District South Waziristan.  
Through counsel


  
(Ahmad Abu Hanifa)  
Advocate High Court.

5

**AFFIDAVIT**

I, Muhammad Yasin Shah, TC BS-17, SDEO (M) SD, Sarwakai, District South Waziristan, appellant do hereby solemnly affirm on Oath that the contents of the petition are true and correct to the best of my knowledge and belief and that nothing has been concealed from this Honourable Tribunal.

Dated 12.2023

  
Deponent.  
(Identified by)

  
(Ahmad Abu Hanifa)  
Advocate High Court.



(6)

Annexure (A)



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT  
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar  
Phone No. 091-9210626

Dated: 24<sup>th</sup> July, 2023

**NOTIFICATION**

**NO.SO(MC)E&SED/4-16/2023/Posting/Transfer/SW:** The following postings/transfers are hereby ordered with immediate effect, in the best public interest: -

Sr. No	Name & Designation	From	To	Remarks
1.	Zain Ud Din TC BS-16	SST GMS Poi Khel Shamiral SW	SDEO (M) SD Ladha Soth Waziristan	V.S.No.2
2.	Abdul Samad TC BS-17	SDEO (M) SD Ladha Soth Waziristan	Head Master GHS Shakai SW	AVP
3.	Muhammad Yasin Shah TC BS-17	SST GHS Sam SW	SDEO (M) SD Sarwakai Soth Waziristan	V.S.No.4
4.	Inayat Ullah TC BS-17	SDEO (M) SD Sarwakai Soth Waziristan	Head Master GHS Chalera Makin SW	AVP

2. No TA/DA is allowed.

SECRETARY TO GOVT: OF KHYBER PAKHTUNKHWA  
E&SE DEPARTMENT

**Endst: of even No.& date:**

Copy forwarded for information to the: -

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
3. Director EMIS, E&SE Department with the request to upload the same on the official website of the department.
4. District Education Officer (Male) Concerned.
5. District Accounts Officer Concerned.
6. PS to Advisor to Chief Minister on E&SE Khyber Pakhtunkhwa.
7. PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.

IMRAN ZAMAN)  
SECTION OFFICER (Management Cadre)

(7)

Annexure (B)



**GOVERNMENT OF KHYBER PAKHTUNKHWA  
ELEMENTARY & SECONDARY EDUCATION  
DEPARTMENT**

Dated 7<sup>th</sup> August 2023

**NOTIFICATION**

**NO. E&S/EMIS/EDD-16/2023** (Transfer): The Department's Notification of even number dated 24-07-2023 regarding posting / transfer of SDEOs/ Headmasters of South Waziristan, is hereby withdrawn/ Cancel ab initio

**SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA  
E&S DEPARTMENT**

**End of even No. & date:**

Copy forwarded for information to the -

1. Accountant General, Khyber Pakhtunkhwa, Peshawar
2. Director, E&S Khyber Pakhtunkhwa Peshawar
3. Director EMIS, E&S Department with the request to upload the same on the official website of the department
4. District Education Officer (Male), Concerned
5. District Accounts Officer, Concerned
6. PS to Advisor to Chief Minister on E&S, Khyber Pakhtunkhwa
7. PS to Secretary, E&S Department, Khyber Pakhtunkhwa

111 / 3<sup>rd</sup> 8 10/23

**(IMRAN ZAMAN)**  
SECTION OFFICER (Management Cadre)



7A

**BETTER COPY**

**GOVERNMENT OF KHYBER PAKHTUNKHWA ELEMNTARY AND  
SECONDARY EDUCATION DEPARTMENT**

**DATED: 07-AUG-2023**

**NOTIFICATION:**

**NO. SO(MC)E&SED/4-10/2023/POSTING /TRANSFERSW:** this departments notification even number dated 24-07-2023 regarding posting / transfer of SDEOs/ Headmaster of south Waziristan is hereby withdrawn / cancel ab-intio

Secretary of Govt of Khyber Pakhtunkhwa

(8)

Annexure (c)

To

The Secretary Education Department,  
Khyber Pakhtunkhwa Peshawar.

Subject: DEPARTMENTAL APPEAL/REPRESENTATION  
AGAINST THE POLITICAL BASED  
CANCELLATION/WITHDRAWAL NOTIFICATION NO  
SO(MC) E & SED/4-  
16/2023/POSTING/TRANSFER/SW DATED  
09/08/2023 ISSUED BY THE SECTION OFFICER  
(MANAGEMENT CADRE) VIDE WHICH THE  
NOTIFICATION NO. SO(MC)E&SED/4-  
16/2023/POSTING/TRANSFER/ SW DATED  
24/07/2023 IS CANCELLED/WITHDRAWN WITHOUT  
ANY LAWFUL AUTHORITY.

Respected Sir,

Appellant humbly submits as under,

1. That the appellant has been serving in the Education Department upper Waziristan as TC (BPS-17) and always performed duties with zeal, zest and to the entire satisfaction of his superior and did not leave any stone unturned towards his duties and obligations. In this respect service record of appellant is very much evident.
2. That the appellant, during the service tenure, have diligently performed his duties in the far-flung and hard areas of the Tribal District South Waziristan.
3. That the appellant was serving as SST at GHS SAM South Waziristan and transferred from the said school as SDEO (M) SD SARWEKAI South Waziristan vide notification No. SO(MC)E&SED/4-16/2023/Posting/Transfer/SW dated 24/07/2023 in best public interest. Copy of the notification dated 24/07/2023 is annexed.
4. That the appellant was performing his duties against the above mentioned post diligently and dedicatedly but Ironically the Section Officer (Management Cadre) Issued the Impugned

(9)

political based notification dated 09/08/2023 vide which the notification dated 24/07/2023 is withdrawn/cancelled without any lawful justification. Copy of Impugned notification dated 09/08/2023 is annexed.

5. That the Impugned notification dated 09/08/2023 is pre-mature, illegal, against service laws and policy, hence, liable to be cancelled.
6. That as per policy the posting tenure is minimum three years but in the instant case the transfer order of appellant is cancelled only after few days (17 days) which clearly reveals that the appellant is politically victimized.
7. That the Impugned notification dated 09/08/2023 has been issued just after 17 days which is pre-mature and on the basis of political influence, hence, on this sole ground, the Impugned transfer order is liable to be set aside.
8. That no prior notice was issued to the appellant nor any prior information was delivered, furthermore no reason whatsoever has been given in the Impugned order/notification for the withdrawal of the earlier notification. Moreover in my entire professional life no complaint of any kind has been filed/instituted against the appellant these facts alone renders the Impugned order/notification illegal, without lawful authority and not maintainable in the eyes of settled principles of law and natural justice.
9. That your good self has got vast powers to accept the instant departmental appeal.

It is therefore, humbly requested that the impugned political based notification dated 09/08/2023 may kindly be set aside and the applicant may kindly be allowed to perform his duties as SDEO (M) SD Sarwaka SWTD till completion of his legal tenure i.e. three years.

Dated 31/08/2023



Muhammad Yasin Shah  
TC BS-17  
SDEO (M) SD Sarwaka SWTD.  
Contact No. 93306815794

9A

Your shipment under CN 593151804 was delivered.

Receiver : ASHRAF

Date 09/01/2023

Leopards Courier

UAN: 111-300-786 <https://bit.ly/3nE3ckS>

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KHYBER PAKHTUNKHWA BAR COUNCIL

ADVOCATE HIGH COURT

10

AHMAD ABU HANIFA IMAM

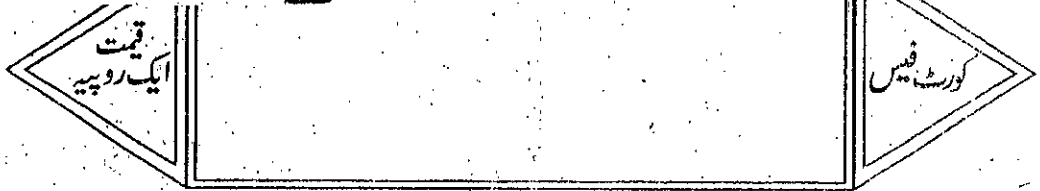
Advocate  
bc-11-3042

Date of Issue: June 2021  
Valid upto: June 2024



وکالت نامہ

Secretary  
KP Bar Council



Before The Service Tribunal  
Petitioner  
Muhammad Yasin KPK etc.

دعویٰ یا جرم

Service Appeal

باعث تری آنکہ

مقدمہ مندرجہ بالا عنوان میں اپنی طرف واسطے بیرونی و جواری برائے پیشی یا تصفیہ مقدمہ بمقام  
Ahmad Abu Hanifa Ans

کے لیے  
کے حسب اہل شرائط پر وکیل مقرر کیا ہے، کہ میں ہر پیشی پر خود بخود یا اختیار خاص اور عدالت حاضر ہوں گا۔ اور ہر وقت پکارے جانے مقدمہ مکمل صاحب  
موصوف کا اطلاع دے گا اور عدالت کے احکامات پر عمل پیرا رہوں گا۔ اور مقدمہ مندرجہ بالا کے عدالت کے احکامات پر عمل پیرا رہوں گا۔ اور مقدمہ مندرجہ  
اثریکہ کی طرح ذمہ دار نہ ہوں گے، نیز وکیل صاحب موصوف صدر مقام پشاور کے علاوہ کسی جگہ یا پشاور کے اوقات سے پہلے یا چھپے یا بروز تعطیل بیرونی کرنے کے  
ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پشاور کے علاوہ کسی جگہ یا پشاور کے اوقات سے پہلے یا چھپے یا بروز تعطیل بیرونی کرنے کے ذمہ دار نہ  
ہوں گے۔ اور مقدمہ مندرجہ بالا کے عدالت کے احکامات پر عمل پیرا رہوں گا۔ اور مقدمہ مندرجہ بالا کے عدالت کے احکامات پر عمل پیرا رہوں گا۔ اور مقدمہ مندرجہ  
دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا عینانہ واپس کرنے کے بھی موصوف ذمہ دار نہ ہوں گے۔ مجھ کو کل ساختہ پروا خط صاحب موصوف مل کر وہ  
ذات خود منظور و قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ یا جواب دعویٰ یا اور ذمہ دار نہ ہوں گے اور اس پر حتمی اور حتمی درخواست پر دستخط و تصدیق کرنے کا  
بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کرنے اور حتمی کاروبار وصول کرنے اور رسید دینے اور وکیل کے بیان دینے اور اس پر حتمی یا راضی نامہ و فیصلہ بر  
حالت کرنے اور قبول دعویٰ کا بھی اختیار ہوگا۔ اور بصورت مقرر ہونے تاریخ پیشی مقدمہ مذکورہ نظر ثانی واپس لے کر عدالت کے احکامات پر عمل پیرا رہوں گا۔ اور مقدمہ  
مقدمہ یا مستثنیٰ ڈگری کے طرف یا درخواست حکم اختتامی یا ترقی یا گرفتاری قبل از فیصلہ اجراء کے ڈگری بھی صاحب موصوف کو بشرط ادا کیلئے طبعہ عینانہ بیرونی کا اختیار ہوگا  
اور تمام ساختہ پروا خط صاحب موصوف مل کر وہ ذات خود منظور و قبول ہوگا۔ اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکورہ یا اس کے جزو  
کی کارروائی یا بصورت درخواست نظر ثانی واپس لے کر عدالت کے احکامات پر عمل پیرا رہوں گا۔ اور مقدمہ مندرجہ بالا کے عدالت کے احکامات پر عمل پیرا رہوں گا۔ اور مقدمہ مندرجہ  
بھی ہر امر میں وہی اور ویسے اختیارات حاصل ہوں گے، جیسے صاحب موصوف کو حاصل ہیں، اور دوران مقدمہ میں جو کچھ ہر جائزہ التوا ملے گا، وہ صاحب  
موصوف کا حق ہوگا۔ مگر صاحب موصوف کو پوری فیس تاریخ پیشی سے پہلے ادا نہ کروں گا۔ تو صاحب موصوف کو پورا اختیار ہوگا کہ وہ مقدمہ کی بیرونی نہ کریں اور ایسی  
صورت میں میرا کوئی مطالبہ کسی قسم کا صاحب موصوف کے برخلاف نہیں ہوگا۔

لہذا عدالت نامہ گھنڈا ہے تاکہ سند رہے

مورثہ 201

مضمون وکالت نامہ من لیا ہے۔ اور اچھی طرح سمجھ لیا ہے اور منظور ہے۔

العبد العبد العبد

Accepted  
A. Y. P.

Signature