

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR.

Service Appeal No. 2590/2023

Zain Ud Din

Versus

Government of Khyber Pakhtunkhwa, etc.

Index

<u>S.NO.</u>	<u>PARTICULARS OF THE CASE.</u>	<u>ANNEXURES.</u>	<u>PAGES.</u>
1.	Grounds of appeal along with CM.		1-5
2.	Copy of notification dated 24.07.2023	'A'	6
3.	Copy of impugned notification dated 09.03.2023	'B'	7-7A
4.	Copy of Departmental Appeal/Representation	'C'	8-9A
5.	Vakalatnamas.		10

**SCANNED
KPST
Peshawar**

Your Humble appellant:



**(Zain Ud Din)
SDEO (M) SD, Ladha,
District South Waziristan.
Through counsel**



**(Ahmad Abu Hanifa)
Advocate High Court.**

Dated: .12.2023

①

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA
PESHAWAR

Service Appeal 2590/2023

Zain Ud Din TC BS-16, SDEO (M) SD, Ladha, 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CADRE) VIDE WHICH THE NOTIFICATION NO.SO(MC)E&SE/4- 16/202/POSTING/TRANSFER SW DATED 24.07.2023 WAS CANCELLED/WITHDRAWN WITHOUT ANY LAWFUL AUTHORITY.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 responders 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 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:-

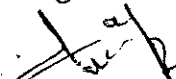
It is therefore, humbly prayed that the impugned politically based notification dated 09.08.2023 may kindly be set aside and appellant may kindly be allowed to perform his duties as SDEO (M) SD, Ladha, South Waziristan till completion of his legal tenure of three years in the interest of justice and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

Your humble appellant:



(Zain Ud Din)
SDEO (M) SD, Ladha,
District South Waziristan.
Through counsel

Dated: .12.2023


(Ahmad Abu Hanifa)
Advocate High Court.

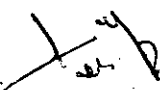
AFFIDAVIT

I, Zain Ud Din, TC BS-16, SDEO (M) SD, Ladha, 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.

Attested
31

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUNKHWA, PESHAWAR.

Misc: Application No. _____/2023

In Service Appeal No. _____/2023

Zain Ud Din

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:



(Zain Ud Din)
SDEO (M) SD, Ladha,
District South Waziristan.
Through counsel



(Ahmad Abu Hanifa)
Advocate High Court.

5

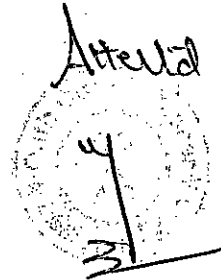
AFFIDAVIT

I, Zain Ud Din, TC BS-16, SDEO (M) SD, Ladha, 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.


Attended
4
31

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: 24th 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 ✓ P	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 ✓ P	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.

111 / 24/7/2023

IMRAN ZAMAN)
SECTION OFFICER (Management Cadre)

(7)

Annexure (B)



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Dated 7th August 2023

NOTIFICATION

NO. SO/INC/E&SED/4-18/2023/Posting/Transfer/SW: This 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&SE DEPARTMENT

Ends: 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

111 / 3rd 8 2023

(IMRAN ZAMANI)

SECTION OFFICER (Management Cadre)

7 A

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

(B)

Annexure

(C)

To,

The Secretary Education Department
Khyber Pukhtunkhw 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 SECTION OFFICER (MANAGEMENT CADRE)
VIDE WHICH THE NOTIFICATION No. SO(MC)E&SE/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(BPS16) and always performed duties with zeal, zest and to the entire satisfaction of his and 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 GMS Poi Khel Shamirai South Waziristan and 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 in the best 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 office (Management Cader) Issued the impugned political based notification dated 09/08/2023 vide which the Notification dated 24/07/2023 is withdrawn/cancelled without any lawful

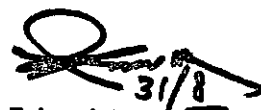
9

Justification. Copy of impugned notification dated 09/08/2023 is annexed.

5. That the impugned notification dated 09/08/2023 is premature, 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 of the 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 premature 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 render 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 power 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 Ladha till completion of my legal tenure i.e. Three years.

Dated 31/08/2023


31/8
23

Zain ud din
TC BS-16
SDEO(M)SD LADHA
Contact No 03009098125

Your shipment under CN 593151804 was delivered.

Receiver: ASHRAF

Date: 09/01/2023

Leopards Courier

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

9A

To stop receiving messages from this brand only, send 'unsub' to 6663625 or send "REG" to 3627 to block all promotional messages



KHYBER PAKHTUNKHWA
BAR COUNCIL

ADVOCATE HIGH COURT

10

AHMAD ABU HANIFA IMAM

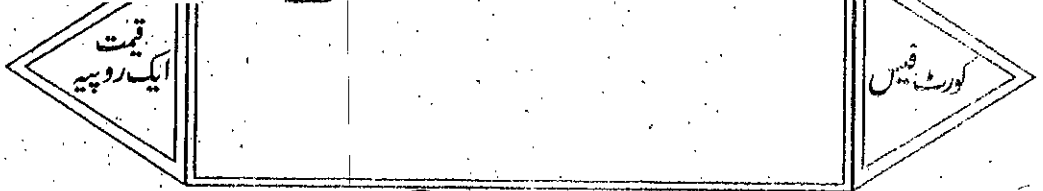
Advocate
bc-11-3042

Date of Issue: June 2021
Valid upto: June 2024



Secretary
KP Bar Council

وکالت نامہ



Before the Service Tribunal **ابدالت بناب**

Petitioner **مخاب**

Zainudin **نام** KPK etc.

دعویٰ یا جرم

Service Appeal **تفصیل دعویٰ یا جرم**

باعث تحریر آنکہ

مقدمہ شدہ رجب بالا عنوان میں اپنی طرف واسطے بیرونی وجود ہی برائے پیشی یا تصفیہ مقدمہ بمقام **آئی اے**
Ahmad Abu Hanifa AHC

کو حسب ذیل شرائط پر وکیل مقرر کیا ہے، کہ میں ہر پیشی پر خود بخود اختیار خائن رو برو عدالت حاضر ہوتا ہوں گا۔ اور ہر وقت ہمارے جانے مقدمہ وکیل صاحب
موصوف کا اعلان دیکر حاضر عدالت کروں گا، اگر پیشی پر منظر حاضر نہ ہوں اور مقدمہ بیرونی غیر حاضری کی وجہ سے کسی طور پر برے برخلاف ہو گیا۔ تو صاحب موصوف
ایکے کی طرح ذمہ دار نہ ہوں گے، نیز وکیل صاحب موصوف صدر مقام پشوری کے علاوہ کسی جگہ یا پشوری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل بیرونی کرنے کے
ذمہ دار نہ ہوں گے۔ نیز وکیل صاحب موصوف صدر مقام پشوری کے علاوہ کسی جگہ یا پشوری کے اوقات سے پہلے یا پیچھے یا بروز تعطیل بیرونی کرنے کے ذمہ دار نہ
ہوں گے۔ اور مقدمہ صدر پشوری کے علاوہ اور جگہ سماعت ہونے یا بروز تعطیل یا پشوری کے اوقات کے آگے پیچھے پیش ہونے پر منظر کو کوئی نقصان پہنچے تو اس کے ذمہ
دار یا اس کے واسطے کسی معاوضہ کے ادا کرنے یا جتانہ واپس کرنے کے بھی موصوف ذمہ دار نہ ہوں گے۔ نیز کوکل سائنٹ پر داخلہ صاحب موصوف مل کر وہ
ذات خود منظور قبول ہوگا۔ اور صاحب موصوف کو مرضی دعویٰ، یا جواب دعویٰ یا درخواست اجراءے ڈگری و نظر ثانی اپیل مگرانی و جرم درخواست پر دیکھنا و تصدیق کرنے کا
بھی اختیار ہوگا۔ اور کسی حکم یا ڈگری کرانے اور جرم کاروبار وصول کرنے اور سد روئے اور داخل کرنے اور جرم کے بیان دینے اور اس پر غامی یا راضی نامہ و فیصلہ بر
حلف کرنے، اقبال و کوئی کا بھی اختیار ہوگا۔ اور بصورت مقرر ہونے تاریخ پیشی مقدمہ مذکورہ بیرون از پشوری صدر بیرونی مقدمہ مذکورہ نظر ثانی و اپیل و مگرانی و برآمدگی
مقدمہ یا منسوخی ڈگری یکطرفہ یا درخواست حکم انتہائی یا قریبی یا گرفتاری قبل از فیصلہ اجراءے ڈگری بھی صاحب موصوف کو بشرط ادا سنگل طبعہ عیان بیرونی کا اختیار ہوگا
اور تمام سائنٹ پر داخلہ صاحب موصوف مل کر وہ ذات خود منظور قبول ہوگا۔ اور بصورت ضرورت صاحب موصوف کو یہ بھی اختیار ہوگا کہ مقدمہ مذکورہ یا اسکے کسی جزو
کی کارروائی یا بصورت درخواست نظر ثانی اپیل یا مگرانی یا دیگر معاملہ مقدمہ مذکورہ کی دوسرے وکیل یا جرم کو اپنے بجائے یا اپنے ہمراہ مقرر کریں۔ اور ایسے غیر قانونی کو
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 التواء پڑے 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۔

201

مضمون وکالت نامہ من لیا ہے۔ اور اچھی طرح لکھا گیا ہے اور منظور ہے۔

Accepted
Signature

Signature