

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

Service Appeal No. 1023/2016

Date of Institution... 30.09.2016

Date of decision... 25.01.2018

Ihsanullah, Lecturer in Chemistry Government Post Graduate College, Mardan. .
... (Appellant)

Versus

1. Government of Khyber Pakhtunkhwa Secretary Higher Education, Civil Secretariat, Peshawar and 3 others. (Respondents)

Mr. Daris Khan,
Advocate.

...

For appellant.

Mr. Kabeerullah Khattak,
Addl. Advocate General

...

For official respondents.

Mst. Roeda Khan,
Advocate

...

For respondent No. 4.

MR. NIAZ MUHAMMAD KHAN,
MR. GUL ZEB KHAN,

...

CHAIRMAN
MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: -

Arguments of the

learned counsel for the parties heard and record perused.

FACTS

2. The appellant was transferred from Mardan to Charsadda on 14.6.2016 during the period of his study leave. The appellant is still on study leave. A departmental appeal against this order was filed by his brother on 17.6.2016 which was not responded to and thereafter the present service appeal on 30.09.2016.

ARGUMENTS

3. The learned counsel for the appellant argued that the departmental appeal could be filed by the brother of the appellant. That when the appellant has filed the present service appeal, the departmental appeal merged into the present service appeal. That the transfer order was made in violation of the leave sanction order. That according to this order, the appellant was to return back to the same post and station. That under the spouse policy too, the appellant was entitled to be retained at Mardan.

4. On the other hand, the learned counsel for private respondent No. 4 argued that the present service appeal is not maintainable as departmental appeal was filed not by the appellant but by his brother. That there is no law whereby brother of the aggrieved civil servant could file department appeal.

The learned Addl. Advocate General also adopted the arguments of the learned counsel for private respondent No.4.

CONCLUSION

5. Admittedly the departmental appeal was filed by the brother of the appellant. This Tribunal has the jurisdiction subject to the provision of Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974. The departmental appeal is a precondition for assuming the jurisdiction by this Tribunal. Since the departmental appeal was filed by an incompetent person, this Tribunal cannot assume the jurisdiction on the basis of that departmental appeal. The present appeal is therefore, not maintainable. However, since the appellant is on study leave he would exercise

his right, if any, after return from his study leave. The present appeal is dismissed being not maintainable. Parties are left to bear their own costs. File be consigned to the record room.


(Gul Zeb Khan)
Member


(Niaz Muhammad Khan)
Chairman

ANNOUNCED
25.1.2018

1023/16

25.01.2018

Counsel for the appellant, Addl. AG for the official respondents and counsel for respondent No. 4 present. Arguments heard and record perused.

Vide our detailed judgment of today, this appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.


Member


Chairman

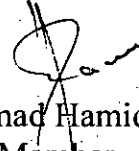
ANNOUNCED
25.01.2018

15.11.2017

Counsel for the appellant and Mr. Ziaullah, DDA for respondents present. During the course of arguments learned DDA objected on maintainability on the ground that instead of appellant his brother namely Sajjad Ahmad has filed departmental appeal. Learned counsel for the appellant seeks adjournment to prepare the case on the issue of maintainability. Adjourned. To come up for arguments on 05.12.2017



(Ahmad Hassan)
Member



(Muhammad Hamid Mughal)
Member

05.12.2017

Counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney alongwith Mr. Murad Ali, Superintendent for the respondents also present. Learned counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 05.01.2018 before D.B.



(Ahmad Hassan)
Member (E)



(Muhammad Amin Khan Kundi)
Member (J)

05.01.2018

Counsel for the appellant present. Asst: AG for official respondents present. Private respondent no.4 not in attendance. Notice be issued to private respondent no.4 for appearance. Adjourned. To come up for arguments on ~~25.01~~ 25.01.2018 before D.B.



(Ahmad Hassan)
Member(E)




(M. Amin Khan Kundi)
Member (J)

06.10.2017

Counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney for official respondents and private respondent No. 4 also present. Counsel for the appellant submitted rejoinder which is placed on file. To come up for arguments on 18.10.2017 before D.B.



Member
(Executive)


Member
(Judicial)

18.10.2017


Counsel for the appellant and Mr. Usman Ghani, District Attorney alongwith Mr. Murad Khan, Supdt. for respondents present. Counsel for appellant seeks adjournment. Adjourned. To come up for arguments on 08.11.2017 before D.B.



Member
(Executive)


Member
(Judicial)

08.11.2017

Counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Counsel for the appellant requested for adjournment. Request accepted. To come up for arguments on 15.11.2017 before D.B.


(Gul Zeb Khan)
Member (E)


(Muhammad Amin Khan Kund)
Member (J)

20.04.2017

Counsel for the appellant, Addl. AG for official respondents and counsel for private respondent No. 4 present. Counsel for private respondent No. 4 submitted written reply. Cost of Rs. 500/- also paid and receipt thereof obtained from the learned counsel for the appellant. To come up for rejoinder and final hearing on 31.05.2017.



(Muhammad Amin Khan Kundi)

Member

30.05.2017

Counsel for the appellant and Mr. Irfan, Assistant Director Litigation alongwith Mr. Muhammad Adeel Butt, Additional AG for the respondent present. Counsel for the appellant requested for time to file rejoinder. Request accepted. To come up for rejoinder and arguments on 04.09.2017 before D.B.



(Muhammad Amin Khan Kundi)

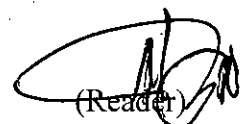
Member



(Gul Zeb Khan)
Member

04.09.2017

Since 4th September, 2017 has been declared as Public Holiday on account of Eid-UI-Azha. Therefore the case is adjourned for the same on 6-10-17 before D.B. Parties be informed accordingly.



(Reader)

1023/2016


12.01.2017

None present for appellant. Murad Ali, Superintendent alongwith Additional AG for official respondents No. 1 to 3 and private respondent No. 4 in person present. Written reply not submitted. Requested for adjournment. To come up for written reply/comments on 15.02.2017 before S.B.


Chairman

15.02.2017

Counsel for the appellant, Mr. Asif Khan, AD alongwith Addl. AG for official respondents and private respondents No. 3 and 4 in person present. Written reply submitted on behalf of respondents No. 1 and 2. Remaining respondents requested for adjournment. To come up for written reply/comments on 22.03.2017 before S.B.


(AHMAD HASSAN)
MEMBER

22.03.2017

Clerk of counsel for the appellant, Mr. Murad Khan, Supdt. for respondents No. 1 & 2 alongwith Asstt. AG for official respondents present. Written reply by official respondents No. 1 & 2 already submitted. Learned Asstt. AG relies on the same on behalf of respondents No. 3. Private respondent No. 4 with counsel (Mst. Rowaida Khan Afshan, Advocate) present, Wakalatnama submitted and requested for further adjournment which is granted subject to payment of cost of Rs. 500/- which shall be paid by private respondent No. 4 from his own pocket. To come up for written reply of respondent No. 4 and cost on 20.04.2017 before S.B.


Chairman

03.11.2016

Learned counsel for the appellant has argued that the appellant is serving as Lecturer in Chemistry at Government Post Graduate College, Mardan. That vide notification dated 27.4.2015 the appellant was granted study leave w.e.f. 05.04.2015 to 04.04.2019 for completion of his Ph.D course. That the appellant is to retain the same post on expiry of leave as stated in the above notification. That vide impugned order dated 14.06.2016 appellant was transferred from the said post to Government Post Graduate College, Charsadda where-against he preferred departmental appeal on 17.6.2016 which was not responded and hence the instant service appeal on 30.09.2016.

That the impugned transfer order is against facts and law as the appellant is to return to the same post after completion of his study and moreover the appellant is entitled to retain on the said post on the basis of spouse policy as his wife namely Mst. Shah Rukh is serving at GGDC, Katlang, Mardan.

Appellant Deposited
Security & Process Fee

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 19.12.2016 before S.B.

19.12.2016

Counsel for the appellant and Assistant AG for respondents present. Security and process fee not deposited. Appellant is directed to deposit security and process fee within seven days, thereafter notices be issued to the respondents for written reply/comments on 12.01.2017 before S.B.




Chairman

Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 1023/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	30/09/2016	<p>The appeal of Mr. Ihsanullah presented today by Mr. Daris Khan Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	17.10.2016	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>17-10-16</u></p> <p style="text-align: right;"> MEMBER</p> <p>Counsel for the appellant present. Counsel for the appellant requested for adjournment. Request accepted. To come up for preliminary hearing on 03.11.2016 before S.B.</p> <p style="text-align: right;"> Member</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.

S.A.No 1023 2016

Ihsan UllahPetitioner

Versus

Govt. of KPK through Secretary High Education & others


.....Respondents

INDEX

S#	Description of documents.	Annexure	Pages
1	Memo of appeal with affidavit.		1-4
2.	Stay application with affidavit.		5-7
3	Copy of notification No.SO (colleges-II)HED/12-5/2014 dated 27.04.2015	A	5-8 0-8
5	Copy of impugned notification dated 14.06.2016	B	4-11
6	Copy of representation	C	12-13
7	Copy of notification	D	13-14 0-13
8	Wakalatnama		0-14


Appellant

Through


Daris Khan
Advocate High Court
Peshawar.
Cell: 0300-9849354

Dated: 27.09.2016

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.

S.A.No. 1023 2016

Khyber Pakhtukhwa
Service Tribunal

Diary No. 1033

Dated 30-9-2016

Ihsan Ullah

Lecturer in Chemistry Govt. Post Graduate College,

Mardan.....Appellant

Versus

- 1) Govt. of KPK through Secretary Higher Education, Civil Secretariat, Peshawar.
- 2) Director Higher Education, near GHSS No.1, G.T Road, Peshawar.
- 3) Principal Govt. Post Graduate College, Peshawar.
- 4) Mr. Mohammad Ashfaq, Lecturer in Chemistry, Govt. Post Graduate College, Mardan..... Respondents

APPEAL U/S 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE NOTIFICATION NO.SO(C-11)HE/2-5/16 DATED 14.06.2016 WHEREBY THE APPELLANT WAS TRANSFERRED FROM MARDAN TO GOVT. POSTGRADUATE COLLEGE CHARSADE AND REPRESENTATION OF APPELLANT WAS NOT DECIDED WITHIN THE STATUTORY PERIOD OF 90 DAYS.

Filed to-day

Registrar

30/9/16

Respectfully Sheweth;

Appellant humbly submits as under:

- 1) That appellant was appointed as Lecturer in Chemistry.

(2)

- 2) That the competent authority has granted/ sanctioned 1460 days study leave w.e.f. 05.04.2015 to 04.04.2019 (on half pay) to the appellant for completion of Ph.D courses from School of International Education Tianjin University, China and on expiry of leave he would return to the same post and station. (Copy of notification No.SO (colleges-II)HED/12-5/2014 dated 27.04.2015 I Annexure "A").
- 3) That the respondent No.1 has issued the impugned notification No.SO(C-II)HE/2-5/16 dated 14.06.2016 through which the appellant has been transferred from Govt. Postgraduate College Mardan to Govt. Postgraduate College, Charsadda. (Copy of impugned notification dated 14.06.2016 is Annexure "B").
- 4) That the appellant filed representations, which were not decided within the stipulated period. (Copy of representation is Annexure "C"). Hence this Appeal on the following amongst other grounds:

GROUND:

- a. That impugned notification dated 14.06.2016 passed by respondent No.1 is illegal, void ab-initio, against law, rules and policy.
- b. That the notification of respondent is discriminatory, illegal, and void, hence untenable under the law.
- c. That in impugned notification, respondent have not given any legal justification for transferring the appellant from the said post.
- d. That appellant has been discriminated thereby violated Articles 4 and 25 of Constitution of Islamic Republic of Pakistan, 1973.
- e. That the respondent No.1 also vilolated the spouse policy because wife of the appellant is also Govt. servant and

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performing her duties at Govt. Girls Degree College, Katlang at Mardan. (Copy of notification is Annexure "D").


- f. That if husband is posted at one place and wife at another one, would cause mental distress to both of them and would also impair their efficiency to discharge their duties, which is the violation of Article 9 and 35 of the Constitution of Islamic Republic of Pakistan, 1973.
- g. That respondent No.1 also violated the notification dated 27.04.2015 in which it is clearly mentioned as "on expiry of leave the officer is likely to return to the same post and station".
- h. That appellant seeks permission of this hon'ble court to advance any other ground/ point at the time of arguments.

It is, therefore, humbly prayed that on acceptance of this appeal, notification issued by respondent No.1 dated 14.06.2016 may please be cancelled/ set aside and appellant may please be permitted to continue his duties at Govt. Postgraduate College, Mardan.

Any other relief which this hon'ble court deems appropriate in the circumstances of the case and not specifically asked for may kindly also be granted.


Appellant

Through


Daris Khan
Advocate High Court
Peshawar.

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BEFORE THE SERVICE TRIBUNAL, PESHAWAR

Service Appeal.No. _____/2016

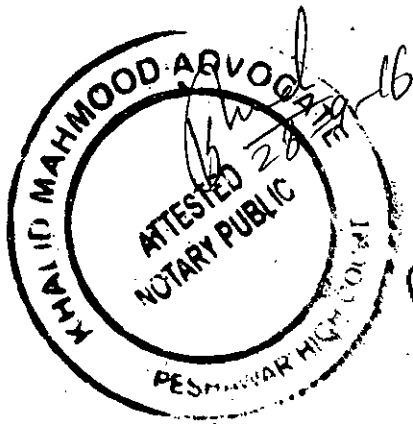
Ihsan Ullah **Petitioner**

VERSUS

Govt of Khyber Pakhtunkhawa through Secretary Higher Education peshawar and others **Respondents**

AFFIDAVIT

I, Ihsan Ullah, Lecturer in Chemistry BPS=17 Government Post Graduate College Mardan, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



Ihsan Ullah
DEPONENT



Service Appeal No. _____ 2018

Mr. Ihsan Ullah Petitioner

VERSUS

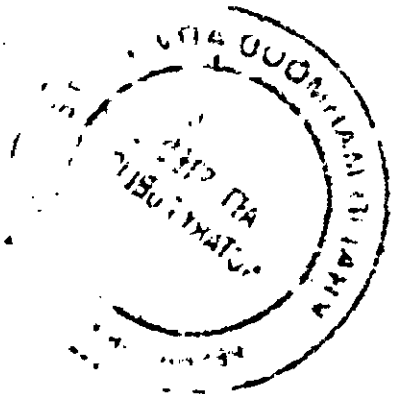
Govt. of Khyber Pakhtunkhwa through Secretary Higher Education Peshawar and others Respondents

AFFIDAVIT

I, Mr. Ihsan Ullah, Lecturer in Chemistry BPS-17 Government Post Graduate College Mardan, do hereby solemnly affirm and declare on oath that the contents of the accompanying Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

DEPONENT

CNIC No.



(5)

BEFORE THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.

C.M.No. _____/2016

IN

S.A.No. _____ 2016

Ihsan Ullah Petitioner

Versus

Govt. of KPK through Secretary High Education & others

..... Respondents

APPLICATION FOR SUSPENSION OF
OPERATION OF IMPUGNED
NOTIFICATION DATED 14.06.2016 TILL
DECISION OF ACCOMPANYING APPEAL.

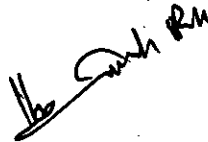
Respectfully Sheweth;

- 1) That the above noted appeal is being filed today before this hon'ble Tribunal in which no date has yet been fixed.
- 2) That grounds of appeal may be considered as part and parcel of this application.
- 3) That prima facie case exists in favour of petitioner.
- 4) That balance of convenience also lies in favour of grant of interim relief.

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- 5) That if the interim relief is not granted, petitioner will suffer irreparable loss.

It is, therefore, prayed that on acceptance of this application, operation of impugned notification dated 14.06.2016 may please be suspended till decision of accompanying appeal.



Appellant

Through



Daris Khan
Advocate High Court
Peshawar.

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BEFORE THE SERVICE TRIBUNAL, PESHAWAR

Service Appeal.No. _____/2016

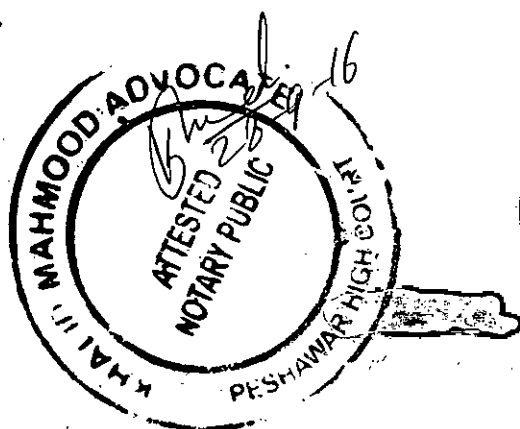
Ihsan Ullah**Petitioner**

VERSUS

Govt of Khyber Pakhtunkhawa through Secretary Higher Education peshawar and others**Respondents**

AFFIDAVIT

I, Ihsan Ullah, Lecturer in Chemistry BPS=17 Government Post Graduate College Mardan, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



[Handwritten Signature]
DEPONENT

BEFORE THE SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. _____ of 2010

..... Petitioner

VERSUS

Govt of Khyber Pakhtunkhwa through Secretary Higher Education Peshawar and others Respondents

AFFIDAVIT

I, Ihsan Ullah, Lecturer in Chemistry BPS-17 Government Post Graduate College Mardan, do hereby solemnly affirm and declare on oath that the contents of the accompanying Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

DEPONENT

CNIC.No.





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Anum A 4
**GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT**

Dated Peshawar the April 27TH, 2015.

NOTIFICATION

No. SO(COLLEGES-II)HED/12-5/2014. In consultation with Finance Department, the Competent Authority is pleased to grant sanction of 1460- days study leave w.e.f. 05.04.2015 to 04.04.2019 (on half pay) to Mr. Ihsan Ullah, lecturer in Chemistry (BS-17) GPGC Mardan, for completion of Ph. D course from School of International Education Tianjin University, China under the provision of FR 84 read with Appendix 9-IA of FR & SR Vol-I&II, subject to the condition that internal / local arrangement will be made by this Department and no contract employee will be appointed during the leave period of the applicant concerned.

2. On expiry of leave the officer is likely to return to the same post and station.

SECRETARY TO
GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION DEPARTMENT.

Dated: 17.04.2015.

Endst: No. SO(FR)/FD/5-13/2015-16

Coy forwarded to the:

➤ District Account Officer Mardan.

SECTION OFFICER (FR)
GOVT. OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

Dated: 27.04.2015

No. SO(COLLEGES-II)HED/12-5/2014.

Copy to the:-

1. Director, Higher Education, Khyber Pakhtunkhwa, Peshawar.
2. Section Officer (FR) Finance Department w/r to his letter No. SO (FR)/ FD/ 5-13 / 2015-16 dated 17-4-2015.
3. The Director General, Immigration & Passport Office, Islamabad.
4. Principal GPGC, Mardan.
5. Officer concerned.

Rukhsana Jabeen
(RUKHSANA JABEEN)
SECTION OFFICER (COLLEGES-II)



(C) 9
Annexure B

**GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT**

Dated Peshawar, 14th June, 2016.

NOTIFICATION

No.SO(C-II)HE/2-5/16/ The Competent Authority is pleased to order the transfer/posting of the following Lecturers of College Cadre mentioned against each with immediate effect in the best Public interest.

S. NO.	NAME AND DESIGNATION	FROM	TO	REMARKS
1.	Mr.Akhtar Gul, Lecturer in Urdu	GDC,B D Shah	GDC,Thana Malakand	AVP
2.	Mr. Jamil Sheraz, Lecturer in Physics.	GDC, Zarobi (Swabi)	GDC ANK (Shaheed) Degree College KTS (Haripur)	AVP
3.	Mr. Inayatullah, Lecturer, in Islamyat	GDC, Landi Jalander (Bannu)	GPGC, Lakki Marwat	Vice S No.4
4.	Mr.Abdul Basit, Lecturer in Islamyat	GPGC,Lakki Marwat	GDC,Landi Jalander	Vice S No.3
5.	Mr. Tahir Iqbal, Lecturer in English	GDC, KDA Kohat	GPGC, Karak	Vice S No.6
6.	Mr.Naqib ur Rehman, Lecturer in English	GPGC,Karak	GDC,KDA Kohat	Vice S No.5
7.	Mr.Sardar Ahmad Farooq, Lecturer in English	GDC,Darband	GPGC,Mansehra	Vice S No.8
8.	Mr.Danish Farid, Lecturer in English	GPGC,Mansehra	GDC,Darband	Vice S No.7
9.	Mr. Rizwanullah, Lecturer in Pol: Science	GDC, Booni (Chitral)	GDC, Badhber (Peshawar)	AVP
10.	Mr.Essa Khan, Lecturer in Economics	GDC, Barkhalozai	GDC,Bakhshali (Mardan)	Vice S No.11
11.	Mr.Tilawat Shah, Lecturer in Economics	GDC, Bakhshali (Mardan)	GDC, Barkhalozai	Vice S No.10
12.	Mr. Naveed Ahmad, Lecturer in Chemistry	GDC, Battagram	GPGC, Mansehra	Vice S No.13
13.	Mr.Sagher Gul, Lecturer in Chemistry	GPGC,Mansehra	GDC,Battagram	Vice S No.12
14.	Mr. Zia Ur Rehman, Lecturer in Islamiyat	GDC, Pattan (Kohistan)	GPGC,Mansehra	Vice S No.15
15.	Syed Mahmood Ul Hassan, Lecturer in Islamyat	GPGC,Mansehra	GDC,Pattan (Kohistan)	Vice S No.14
16.	Mr. Mohammad Ashfaq, Lecturer in Chemistry	GPGC, Charsadda	GPGC, Mardan	Vice S No.17
17.	Mr.Ihsan Ullah, Lecturer in Chemistry	GPGC,Mardan	GPGC,Charsadda	Vice S No.16

18.	Mr. Mazhar Elahi, Lecturer in Mathematics	GDC, Lahor (Swabi)	GDC, Akbarpura (Nowshera)	AVP.
19.	Mr. Mohammad Fayyaz, Lecturer in Physics	GDC, Chakessar (Shangla)	GDC, Thana (Malakand)	Vice S No.20
20.	Mr. Malki Wadan, Lecturer in Physics	GDC, Thana	GDC, Chakessar	Vice S No.19
21.	Mr. Ali Raza, Lecturer in History	GDC Utmanzai (Charsadda)	GDC, Akbarpura (Nowshera)	AVP
22.	Dr. Hikmat Ullah Jan, Lecturer in Botany	GPGC, Bannu	GSSC, Peshawar	AVP
23.	Mr. Muhammad Aslat, Lecturer in History	GDC, Badhber	GDC, Pabbi	AVP
24.	Mr. Wajid Ali, Lecturer in Physics	GDC, Oghai (Mansehra)	GPGC, Mansehra	Vice S No.25
25.	Mr. Ali Ahmad, Lecturer in Physics	GPGC, Mansehra	GDC, Oghai	Vice S No.24
26.	Mr. Nisar Khan, Lecturer in Islamiyat	GDC, Ghazi (Haripur)	GDC, Khanpur (Haripur)	Vice S No.27
27.	Mr. Waqar Ahmad, Lecturer in Islamiyat	GDC, Khanpur	GDC, Ghazi	Vice S No.26
28.	Mr. Alamzeb Khan, Lecturer in Physics	GDC, Landi Jalander (Bannu)	GPGC, Bannu	Vice S No.29 (Mutual transfer)
29.	Mr. Waris Khan, Lecturer in Physics at GPGC, Bannu,	GPGC, Bannu	GDC, Landi Jalander	Vice S No.28 (Mutual transfer).
30.	Mr. Mohammad Hanif Afridi, Lecturer in Economics	GDC, Puran (Shangla)	GPGC, Mansehra	AVP
31.	Mr. Mohammad Shakeel, Lecturer in Urdu	GDC, Khanpur (Haripur)	GPGC, No. 1 Abbottabad	Vice S No.32
32.	Mr. Zafar Iqbal, Lecturer in Urdu	GPGC, No. 1 Abottabad	GDC, Khanpur	Vice S No.31
33.	Mr. Mehmood ul Hassan, Lecturer in English	GDC, Shabqadar (Charsadda)	GDC, Naguman (Peshawar)	AVP
34.	Mr. Mohammad Nisar, Lecturer in Zoology	GDC, Hangu	GPGC, Kohat	AVP
35.	Mr. Imran Khan, Lecturer in Mathematics	GDC, Lachi (Kohat)	GDC, Hangu	Vice S. No. 36
36.	Mr. Yasir Mahmood, Lecturer in Mathematics	GDC, No. 1 D.I. Khan	GDC, Lachi (Kohat)	Vice S. No. 35
37.	Mr. Gul Haider, Lecturer in Urdu	GDC, kotha Swabi	GDC, Gandaf Swabi.	AVP
38.	Mr. Farrukh Kamran, Lecturer in English	GDC, Lachi	GPGC, Kohat	Vice S No.39
39.	Mr. Abid Saleem, Lecturer in English	GPGC, Kohat	GDC, Lachi	Vice S No.38
40.	Mr. Fahim Ullah Khan, Lecturer in Maths	GDC, Kulachi	GDC, Sarai Naurang	Vice S No.41
41.	Mr. Usman Ullah, Assistant Professor of Maths	GDC, Sarai Naurang	GDC, Kulachi	Vice S No.40 as a substitute.
42.	Mr. Muhammad Anwar, Lecturer in Political Science	GDC, Kulachi	GPGC, Lakki	Vice S No.43
43.	Mr. Jadoon Saif Ullah Khan, Lecturer in Political Science	GPGC, Lakki	GDC, Kulachi	Vice S No.42 as substitute.

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44.	Mr.Sibghat Ullah Qureshi, Lecturer of Urdu	GDC, Landhi Jalander	GDC, No.02 Bannu	Vice S No.45
45.	Mr.Irfan Ullah, Assistant Professor of Urdu	GDC.No.02 Bannu	GDC, Landhi Jalander	Vice S.No.44
46.	Mr.Muhammad Zubair, Lecturer in Pakistan study	GPGC, Mansehra	GDC, Lissan Nawab	Vice S No.47
47.	Mr.Maratab Ali Lodhi, Lecturer in Pakistan study	GDC, Lissan Nawab	GPGC, Mansehra	Vice S.No.46
48.	Mr.Murad Ali, Lecturer in Chemistry	GDC, Zaida Swabi	GPGC, Mardan	Vice S No. 49
49.	Mr.Abdul Malik, Lecturer in Chemistry	GPGC, Mardan	GDC, Zaida Swabi	Vice S No.48
50.	Dr. Zia Mohammad, Lecturer in Chemistry	GDC, Paharpur (D.I.Khan)	GDC, No. 1 D.I.Khan	Vice S No.51
51.	Syed Badshah, Lecturer in Chemistry	GDC, No.1 D I Khan	GDC, Paharpur(D I Khan)	Vice S No.50
52.	Mr. Sharifullah, Lecturer in Economics	GDC, Landi Jalander (Bannu)	GDC, Tajori (Lakki Marwat)	AVP
53.	Mr. Khalid Pervaiz, Lecturer in English	GDC, Booni (Chitral)	GDC, Chitral	AVP
54.	Mr. Razaullah Khan, Lecturer in Statistics	GDC, Paniala (D.I. Khan)	GDC, No. 3 D.I. Khan	AVP
55.	Mr. Jamil Ahmad, Lecturer in Economics	GDC, Takht Bhai (Mardan)	GDC, Lund Khwar (Mardan)	Vice S No.56
56.	Mr.Arif Khan, Lecturer in Economics	GDC, Lundkhwar	GDC, Takht Bhai	Vice S No.55
57.	Mr.Rahim Dad, Lecturer in Maths	GDC, Thana	GPGC, Nowshera.	AVP
58.	Mr.Rooh Ul Amin, Lecturer in Botany	GDC, Puran Shangla	GPGJC, Swat	Vice S No.59
59.	Mr.Hameed Iqbal, Lecturer in Botany	GPGJC, Swat	GDC, Puran Shangla	Vice S No.58
60.	Mr.Abubakkar Sidiqqe, Lecturer in Urdu	GPGC, Haripur	GPGJC, Swat	Vice S No.61
61.	Mr.Akhtar Ali, Lecturer in Urdu	GPGJC, Swat	GPGC, Haripur	Vice S No.60
62.	Mr.Feroz shah, Lecturer in Urdu	GDC, Dara Adam Khel	GPGC, Mardan	AVP
63.	Mr.Naveed Hussain, Lecturer in Computer Science	GDC, Thana	GPGC Mardan	Vice S No.64
64.	Mr.Ishaq Ahmad, Lecturer in Computer Science	GPGC, Mardan	GDC, Thana	Vice S No.63
65.	Mr.Zar Moeen, Lecturer in Mathematics	GDC, Takhte Nasrati	GPGC, Kohat	Vice S No.66
66.	Mr.Zubair Ahmad, Lecturer in Maths	GPGC, Kohat	GDC, Takhte Nasrati	Vice S No.65
67.	Mr.Muhammad Ubaid Ullah Anwar, Lecturer in Geography	GDC, Takhtbhai	GDC, Wadpagga	AVP
68.	Mr.Ijaz Ali Khan, Lecturer in English	GDC, Shewa Swabi	GDC, Lahor Swabi	Vice S No.69
69.	Mr.Wahced Jan, Lecturer in English	GDC, Lahor Swabi	GDC, Shewa Swabi	Vice S No.68

70.	Mr.Muhammad Abid,Lecturer in Computer Science	GDC, Nathiagali	GPGC , Mansehra	Vice S No.71
71.	Mr.Muhammad Anwar. Lecturer in Computer Science	GPGC,Mansehra	GDC,Nathiagali	Vice S No.70
72.	Mr.Tilla Muhammad Khan, Lecturer in Geography	GPGC, Karak	GPGC, Lakki Marwat	AVP
73.	Mr.Zahid Ali, Lecturer in Geography.	GDC, Wadpagga Peshawar	GDC,Akbar Pura Nowshera	AVP
74.	Mr.Abdul Zahoor, Lecturer in Political Science	GDC, Khan Kohi	GDC,Akora Khattak	Vice S No.75
75.	Mr.Ehsan Ullah, Assistant Professor of Political Science	GDC,Akora Khattak	GDC,Khan Kohi	Vice S No.74
76.	Mr. Rashid Ahmad, Lecturer in English	GPGJC, Saidu Sharif (Swat)	GDC, Kabal (Swat)	AVP
77.	Mr. Fazal Wahid, Lecturer in Pashto	GPGJC, Saidu Sharif (Swat)	GPGC, Mardan	AVP
78.	Mr.Fazal Hayat Khan, Lecturer in Computer Science	GPGC, Swabi	GDC, Gulabad (Lower Dir)	Vice S No.79
79.	Mr.Muhammad Raees Khan, Assistant Professor of Computer Science	GDC,Gulabad	GPGC,Swabi	Vice S No.78
80.	Mr.Muhammad Iqbal, Lecturer in Botany	GPGC, Dargai	GPGC, Abottabad No.1	Vice S No.81
81.	Mr.Muhammad Aamir, Lecturer in Botany	GPGC,Abottabad No.1	GPGC,Dargai	Vice S No.80
82.	Mr.Naik Bahadar, Lecturer in Mathematics	GDC,Palai	GPGC,Dargai	Vice S No.83
83.	Mr.Karim Ullah, Assistant Professor of Maths	GPGC,Dargai	GDC,Palai	Vice S No.82
84.	Mr.Said Nawaz, Lecturer in Geography	GDC,Takhte Nasrati	GPGC,Karak	Vice S No.72
85.	Mr.Ikram Ullah Khan, Lecturer in Political Science	GDC,Tajori	GPGC,Lakki Marwat	AVP
86.	Mr.Muhammad Anwar. Lecturer in English	GDC.Agra	GDC,Batkhela	AVP
87.	Mr.Abid Sultan, Assistant Professor of English	GDC,Thana	GDC,Agra	Vice S.No.86
88.	Mr.Sultan Zaib, Lecturer in Zoology	GDC,Nathiagali	GPGC,Mandian Abottabad	Vice S No.89
89.	Mr.Muhammad Saeed Anjad. Assistant Professor of Zoology	GPGC,Mandian	GDC,Nathiagali	Vice S No.88
90.	Mr.Muhammad Abid, Lecturer in Statistics	GDC.Nawagai	GPGC,Mardan	Vice S No.91
91.	Mr.Farooq Ahmad, Lecturer in Statistics	GPGC,Mardan	GDC,Nawagai	Vice S No.90
92.	Mr. Muhammad Waqas Ali Shah, Lecturer in Computer Science	GDC, No.03 D I Khan	GDC,Kothka Habib Ullah (Bannu)	Vice S No.93
93.	Mr.Saad Ullah Khan, Assistant Professor of Computer Science	GDC,Kothka Habib Ullah (Bannu)	GDC,No.03 D I Khan	Vice S No.92
94.	Mr.Kishwar Ali, Lecturer in Chemistry	GDC,Chakessar	GPGJC,Swat	Vice S No.95

10

95.	Mr. Muhammad Imran. Lecturer in Chemistry	GPGJC, Swat	GDC, Chakessar	Vice S No.94
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Note: No TA/DA is allowed.

SECRETARY TO
GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION DEPARTMENT

Endst: No. & Date Even

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. PSO to Chief Secretary, Khyber Pakhtunkhwa.
4. Director Higher Education, Khyber Pakhtunkhwa, Peshawar.
5. Principals of all the concerned Colleges.
6. Manager, Govt. Printing Press, Khyber Pakhtunkhwa, Peshawar.
7. Deputy Director HEMIS Cell, Higher Education Department, Tasneem Plaza 3rd Floor, 2nd Flat, Saddar Peshawar.
8. District Accounts Officers concerned.
9. Officers Concerned.

M. A. Chishti
Section Officer (Colleges-II)

(12)

To,

The Director of Higher Education
Khyber Pakhtunkhwa Peshawar.

Subject: -

APPLICATION FOR CORRIGENDUM IN LECTURER
TRANSFER ORDER 2016.

Respect sir,

It is stated that Mr. Ihsan Ullah lecturer in Chemistry at Govt: Post Graduate College Mardan is on long leave (reference notification no SO(Colleges-II) HED/12-5/2014) and is pursuing his higher studies in China. According to the above referred notification he is supposed to return to the same station after the completion of his studies.

Reference notification No-SO (C-II) HE/2-5/16 dt 14-6-2016
Serial No.17 The said lecturer has been transferred while he is out of the country, from GPGC Mardan to GPGC Charsada. As stated the said lecturer is on long leave, so this transfer may be cancelled and a corrigendum may kindly be issued.

Your,s sincerely



Sajjad Ahmad
Brother of Ihsan Ullah
Cell No. 0345-9338767

17 - 6 - 2016.

12A



Office of THE PRINCIPAL
GOVERNMENT POST GRADUATE COLLEGE
MARDAN
Ph# .0957-9230033



No. 2561

Dated: 17/06/2016

To .

The Director
Higher Education
Khyber Pakhtunkhwa, Peshawar

Subject: CORRIGENDUM IN GOVT: OF KHYBER PAKHTUNKHWA HIGHER
EDUCATION DEPARTMENT NOTIFICATION NO. SO (C-II) HE/2-5//16/
DATED, 14-06-2016.

Memo;

Please refer to Govt: of Khyber Pakhtunkhwa Higher Education Department notification No. SO(C-II)HE/2-5/16/ dated. 14-06-2016, wherein Mr. Ihsan Ullah lecturer in Chemistry of this college has been transferred to GPGC Charsadda at S.No. 17, while Mr. Muhammad Ashfaq lecturer in Chemistry of GPGC Charsadda at S.No. 16 has been transferred to this college.

It is pertinent to mention that Mr. Ihsan Ullah lecturer in Chemistry of this college is on Ex-Pakistan study Leave w.e.f 05-04-2015 to 04-04-2019 for Ph.D from School of International Education Tianjin University China vide Govt: of Khyber Pakhtunkhwa Higher Education Department notification No. SO(Colleges-II)HED/12-5/2014/ dated. 27-04-2015, and on the expiry of leave he is likely to return to the same post and station (copy of notification attached)

It is, therefore, requested that necessary corrigendum may kindly be made in the above noted notification and Mr. Muhammad Ashfaq lecturer in Chemistry of GPGC Charsadda under transfer to this college be adjusted against the vacant post of lecturer in Chemistry available at this college.

Principal
Govt: Post Graduate College
Mardan



(13)

**GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT**

Dated Peshawar: the 29th January, 2013.

NOTIFICATION

No.SO(C-III)HE/1-2/12/Recruitment of Female Lecturers (Chemistry).

Consequent upon the recommendation of Public Service Commission, Khyber Pakhtunkhwa, the Competent Authority is pleased to appoint the following recommendees as female lecturers in Chemistry (BS-17) in College Cadre of Higher Education Department with immediate effect and to post them in the College noted against each:-

S.#	Name/Father's Name/Address	Posted at	Remarks
1	Ms. Fareeha Javed D/O Tariq Javed Postal Address:- H.#42, Street # 4, Municipal Corporation Colony Dala Zak Road Peshawar Permanent Address: As Above	GFC(W) Peshawar	AVP
2	Ms. Shahrukh D/O Muhammad Afsar Khan Postal Address:- Shaista Afsar (Elementary Teacher) D/O Afsar Khan working Folks Grammar School Mardan. Permanent Address: Premier Sugar Mills & Distillery, Officers Colony, Mardan House. # .SA-5	GGDC Katlang (Mardan)	AVP
3	Ms. Haleema Ahmad D/O Ahmad Rahim Postal Address:- Village Titabat Tehsil & P.O. Box Khwaza Khela District Swat	GPG, Malala Yousafzai College Saidu Sharif (Swat)	AVP
4	Ms. Syeda Uzma Naz D/O Sardar Hussain Postal Address: Mohallah Pir Sach Village & P.O. Ziarat Kaka Sahib Tehsil & District Nowshera	GGDC Marghuz Swabi	AVP
5	Saeeda Bibi D/O Ghulam Ali Khan Postal Address:- Khaksar Geneal Store Near Sufaid Masjid Afghan Colony Peshawar Permanent Address: Itihad Colony Street No. 4 Peshawar	GCGC, Peshawar,	Vice S.No.1 below adjustment
6	Hajira Bibi D/O Mr Gulab Khan Postal Address: Washich Maldur P.O. Shagram Tehsil Mastuj District Chitral.	GGDC Chitral	AVP

Adjustment			
S.No	Name and Designation/College	To	Remarks
1.	Ms. Syeda Fatima, Lecturer in Maths, GCGC Peshawar	GGDC Gulshan Rehman Colony Kohat Road Peshawar	AVP

TERMS AND CONDITIONS :

- i. They will, for all intents and purposes be Civil Servant, except for the purpose of Pension and Gratuity. In lieu of the same, they will be entitled to receive Contributory Provident Fund.
- ii. They will have all rights/privileges contained in Khyber Pakhtunkhwa Civil Servants Act, 1973 with all amendments made therein including Khyber Pakhtunkhwa, Civil Servants (Amendment) Act.2005 and Rules made there under.
- iii. In case of resignation, the officer will have to give one month prior notice. In absence of such notice her one month's pay/allowances shall be forfeited to Government.
- iv. The selectee should join her post within 30-days of the issue of this notification. The Director Higher Education Khyber Pakhtunkhwa, Peshawar should furnish a certificate to the effect that the selectee has joined the post or otherwise, after one month of the issue of this notification.
- v. In case of disciplinary matters Khyber Pakhtunkhwa, Civil Servants Act.1973 and Khyber Pakhtunkhwa, Civil Servants (Efficiency & Disciplinary) Rules, 2011 shall be applicable.
- vi. They will be on probation for a period of 02 years extendable upto 03 years.
- vii. They will undergo mandatory training for the purpose of promotion, as the case may be.
- viii. They will get pay i.e. initial pay of BPS-17 including usual allowances as admissible under the rules. They will be entitled to annual increment like other Civil Servants.

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION DEPARTMENT

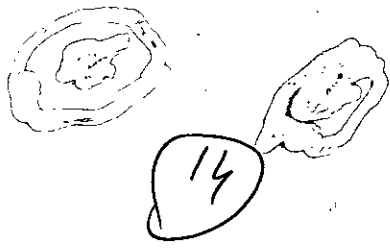
Endst: No. & Date Even

Copy forwarded to the:-

1. Secretary, Public Service Commission, Khyber Pakhtunkhwa Peshawar.
2. Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department, Peshawar.
3. Deputy Director (Female) Higher Education, Khyber Pakhtunkhwa Peshawar.
4. Principals of college concerned.
5. Districts Accounts Officers concerned.
6. P.S to Secretary, Higher Education Department, Khyber Pakhtunkhwa Peshawar.
7. Officers Concerned.

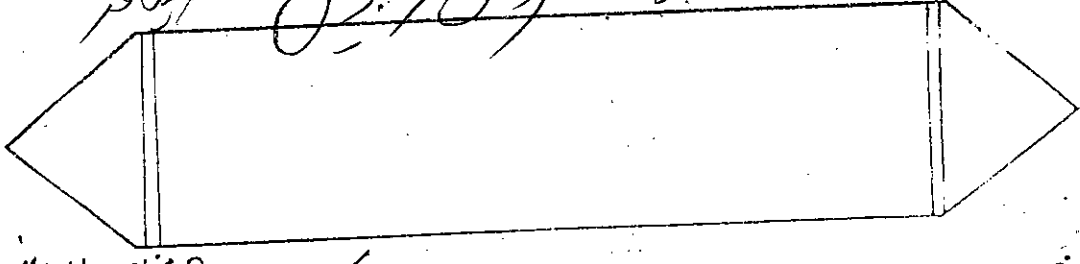


(Wajeaha Bashir)
Section Officer (C-III)



14

پتہ رالت صدر سروس کمر بیرون کراچی



موزخہ	2، پنجاب اسلام آباد
مقدمہ	اصناف احمد
دعویٰ	ان کے لیے
جرم	جو ان کے لیے

سروس اسٹیل باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی مشتمل
آن مقام کے لیے دارس خان احمد لوہی

مقرر کر کے قرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راجس نامہ کرنے و تقرر ثالثتہ فیصلہ برحلف دینے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخ
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے وکل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
صاحب مقرر شدہ کہیں وہی جملہ مذکورہ با اختیار حاصل ہوں گے اور اس کا ساختہ
پر واختہ مفاد قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جہان التوائے مقدمہ کے سبب سے وہوگا۔
کوئی راجس مقام دور پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

اصناف احمد

اندرم 20

واہ الع

کے لئے منظور ہے۔

بمقام

Accepted by
Dars Khan Adu



BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1023/2016

Mr. Ihsan Ullah (Appellant)

VERSUS

Govt. of Khyber Pakhtunkhwa through Secretary Higher Education, Archives & Libraries
Department and others..... (Respondents)

INDEX

S No.	Description of Dements	Annexure	Pages
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2.	Reply to Application for Suspension		3
3.	Affidavit		4

Section Officer (Litigation)

Higher Education Department Khyber
Pakhtunkhwa Peshawar.

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

S.A.No.1023/2016

Mr. Ihsan Ullah.....Appellant.

Versus

Govt. of Khyber Pakhtunkhwa

Through Secretary and Director,

Higher Education Peshawar..... Respondents.

SUBJECT: PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO.1, AND 2.

PRELIMINARY OBJECTIONS.-

Respectfully Sheweth.

1. That the appellant has got no locus standi/cause of action to file the instant service appeal.
2. Transfer/posting is part and parcel of service. Under section 10 of Civil Servant Act any civil servant is liable to be transferred anywhere in the province in the best public interest.
3. That the appellant has not come to the court with clean hands and trying to conceal material facts from the honourable Tribunal.
4. That the instant service appeal is badly time barred.
5. That the instant service appeal is based on mis-conception/mis-statement of facts, hence, liable to be dismissed.
6. That honourable Tribunal lacks jurisdiction to entertain the instant service appeal.
7. That the appellant is estopped by his own conduct to file the instant service appeal.

Facts.

1. Correct that the appellant is working as Lecturer in chemistry in Higher Education Department.
2. Pertains to the record, hence no comments.
3. Correct that appellant has been transferred from Govt.Post Graduate College, Mardan, to Govt.Post Graduate college, Charsadda as substitute to Mr. Muhammad Ashfaq, Lecturer in Chemistry. Moreover, the appellant has sufficient stay as he was posted on 1-4-2010 at GPGC Mardan. Posting/transfer at own choice is not the vested right of the appellant and was transferred in the best interest of the public. While respondent No.4 were working at GPGC, Charsadda, since last six years and a domicile holder of District Mardan.
4. Pertains to record.

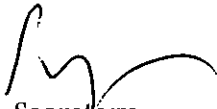
Grounds;

- a. Incorrect. The impugned notification dated 14.6.2016 has been passed by the respondent No.1 within the four corners of law.
- b. Incorrect. The appellant has been treated in accordance with law, rules and policy. According to Civil servant Act, any Govt. Servant is liable to be transferred anywhere in the province. Moreover, transfer/posting is not the vested right of the appellant.
- c. Already explained in para 3 on facts, hence needs no further comments.

- d. Already explained in para b on grounds.
- e. The appellant has been treated in accordance with law, rules and policy.
- f. As replied in the preceding paras.
- g. As replied in the preceding paras.
- h. The respondents may be allowed to raise additional grounds at the time of hearing of the instant case.

Prayer.

It is, therefore, humbly prayed that the instant service appeal is based on misconception/mis-statement and, hence, may graciously be dismissed with costs.



Secretary,

Higher Education Department.

Respondent No.1



Director,

Higher Education Department.

Respondent No.2

Service Appeal No.1023/2016

Mr.Ihsan Ullah..... Appellant.

VERSUS

Govt of Khyber Pakhtunkhwa,
Through Secretary and Director,
Higher Education Department,
Peshawar..... Respondents.

SUBJECT: -REPLY TO APPLICATION FOR SUSPENSION ON BEHALF OF RESPONDENTS NO.1,2

PRELIMINARY OBJECTIONS: -

Respectfully Sheweth. -

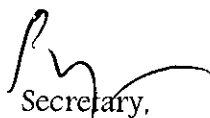
1. That the Applicant has got no cause of action/locus standi to file the instant application.
2. That the Applicant has concealed material facts from the Hon'able Tribunal.
3. That the Hon'able Tribunal lacks jurisdiction to entertain the instant appeal.
4. That the Applicant has not come to the honourable Tribunal with clean hands.
5. That the Applicant is estopped by his own conduct to file the instant application.
6. That the appeal is hit by doctrine of laches.
7. That the instant appeal is based on mis-conception/mis-statement of facts, hence, liable to be dismissed.

Reply;

- 1) Correct.
- 2) That content of parawise comments may graciously be considered as integral part of this reply.
- 3) Incorrect. There is good prima facie case in favour of the respondents with balance of convenience.
- 4) The balance of convenience does not lie in favour of the appellant.
- 5) If the impugned order is set aside the respondents will suffer irreparable loss.

Prayer.

It is, therefore, humbly prayed that the instant application is based on mis-conception/mis-statement and, hence, may graciously be dismissed with costs.


Secretary,

Higher Education Department.
Respondent No.1


Director,

Higher Education Department.
Respondent No.2

BEFORE THE HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1023/2016

Mr. Ihsan Ullah..... (Appellant)

VERSUS

Govt. of Khyber Pakhtunkhwa through Secretary Higher Education, Archives & Libraries
Department and others..... (Respondents)

AFFIDAVIT

I, Asif Khan, Assistant Director (Litigation), Higher Education, Archives & Libraries Department, Government of Khyber Pakhtunkhwa, do hereby declare and affirm on oath, that the contents of joint para wise comments is correct to the best of my knowledge and belief and that nothing has been concealed from this Hon'ble Court.

AS
15/2/17
Deponent

CNIC No. 17301-6043213-9



Office of The Principal
GOVERNMENT POST GRADUATE COLLEGE
MARDAN
PH# 0977-9230033



No. 2871

Dated: 20/02/2017

To

The Registrar
Khyber Pakhtunkhwa Service Tribunal
Peshawar

Subject: APPEAL NO. 1023 OF 2016 MR. IHSAN ULLAH VS GOVT: OF
KHYBER PAKHTUNKHWA.

Memo;

Please refer to appeal No. 1023. It is submitted that Mr. Ihsan Ullah lecturer in chemistry, who has been transferred from GPGC Mardan to GPGC Charsada vide notification No. SO(C-II)HE/2-5/16 dated 14-06-2016. It is further stated that the said officer is on Ex-pakistan leave w.e.f. 05-04-2015 to 04-04-2019 for Ph.D studies from School of International Education, Tianjin University P.R. China vide Govt: of Khyber pakhtunkhwa Higher Education Department notification No.SO(Colleges-II)HED/12-5/2014 dated 27-04-2015, and on the expiry of leave the officer is likely to be return to the same post and same station(copy of notification attached).

It is therefore requested that the said officer may please be retained on the same post and Mr. Muhammad Ashfaq may please be adjusted against vacant post as a number of vacant posts are available in this college.

put up to the court with
relevant appeal.

Reader

23/2/17

Principal
Govt: Post Graduate College
Mardan

20/02/2017



**GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT**

Dated Peshawar the April 27TH, 2015.

NOTIFICATION

No. SO(COLLEGES-II)HED/12-5/2014. In consultation with Finance Department, the Competent Authority is pleased to grant sanction of 1460- days study leave w.e.f. 05.04.2015 to 04.04.2019 (on half pay) to Mr. Ihsan Ullah, lecturer in Chemistry (BS-17) GPGC Mardan, for completion of Ph. D course from School of International Education Tianjin University, China under the provision of FR 84 read with Appendix 9-IA of FR & SR Vol-I&II, subject to the condition that internal / local arrangement will be made by this Department and no contract employee will be appointed during the leave period of the applicant concerned.

- ✓ 2. On expiry of leave the officer is likely to return to the same post and station.

SECRETARY TO
GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION DEPARTMENT.

Endst: No. SO(FR)/FD/5-13/2015-16

Dated: 17.04.2015.

Copy forwarded to the:

- District Account Officer Mardan.

SECTION OFFICER (FR)
GOVT. OF KHYBER PAKHTUNKHWA
FINANCE DEPARTMENT

No. SO(COLLEGES-II)HED/12-5/2014.

Dated: 27.04.2015

Copy to the:-

1. Director, Higher Education, Khyber Pakhtunkhwa, Peshawar.
2. Section Officer (FR) Finance Department w/r to his letter No. SO (FR)/ FD/ 5-13 / 2015-16 dated 17-4-2015.
3. The Director General, Immigration & Passport Office, Islamabad.
4. Principal GPGC, Mardan.
5. Officer concerned.

(RUKHSANA JABEEN)
SECTION OFFICER (COLLEGES-II)



75999

ایڈووکیٹ/دستخط: Plees

بار کونسل اہلکار ایسوسی ایشن نمبر:

رابطہ نمبر: 03330265950

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: مدرسہ اسلامیہ خیبر پختونخواہ

منجانب: Respondent No 4	دعوی:
<p>احسان علی</p> <p>احسان علی</p> <p>احسان علی</p>	علت نمبر:
	مورخہ:
	جرم:
	تھانہ:
باعت تحریر آنکہ	

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ

آن مقام پشاور کیلئے احسان علی کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر حالت و فیصلہ برصفت دینے جواب دعوی اقبال دعوی اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اخیل کی برآمدگی اور منسوخی، نیز دائر کرنے اخیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہو گا اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ اختیارات حاصل ہوں گے اور اس کا ساتھ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا وہ وکیل موصوف وصول کرنے کا مختار ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ مندر ہے۔

المرقوم: 22-3-07

بد _____ واہ شد _____ بد _____

مقام _____ کے لئے منظور ہے۔

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No. 1023/2016

Ihsan Ullah

Versus

Govt of KPK etc

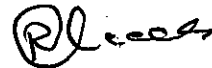
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Dated: 17/04/2017

Through

Replying respondent no. 4



ROEEDA KHAN,

&

AFSHA MANZOOR,

Advocate,

High Court Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No. 1023/2016

Ihsan Ullah

Versus

Govt of KPK etc

PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO.4

Respectfully Sheweth,

Preliminary objections: -

1. That the appellant has no cause of action to file the instant appeal.
2. That the order of the respondent no.1 is very much legal.
3. That the appeal is not maintainable in its present form.
4. Transfer / Posting is part and parcel of service, under section 10 of the Civil Servant Act "any Civil Servant

is liable to be transferred in the province in the best public interest”

- 5. That the appellant has concealed the actual facts from this Honourable Tribunal.*
- 6. That the instant service appeal is badly time barred.*
- 7. That the appellant is stopped by his own conduct to file the instant appeal.*

Reply on facts:

- 1. Para No.1 of the facts is correct. The appellant is working as Lecturer in Chemistry in Higher education Department.*
- 2. Para no.2 needs no comments. Para pertains to record.*
- 3. Para No.3 is correct. The appellant has been transferred from Govt Post Graduate College Mardan to Govt Post Graduate College Charsadda, while respondent no.4 has been transferred from Govt Post Graduate College Charsadda to Govt Post Graduate College Mardan. The appellant was transferred in the best interest of public. Posting and transfer at own choice is not the vested right of the appellant. Because according to Section 10 of the Civil Servant Act, any Civil Servant is liable to be transferred anywhere in the province, in the*

best public interest. Moreover the appellant has sufficient stay as he was posted on 01/04/2010 at Government Post Graduate College Mardan, while the respondent no.4 was working in Govt Post Graduate College Charsadda, since last 6 years and is domicile holder of District Mardan.

Reply to Grounds of appeal:

- A. Para A of the appeal is incorrect, hence denied.
The impugned order is in accordance with law and rules and in accordance with the superior courts judgments.
- B. Para B of the appeal is incorrect, hence denied.
The appellant has been treated in accordance with law, according to section 10 of any Civil Servant is liable to be transferred to anywhere in the province in the best public interest.
- C. Para C of the appeal is incorrect, hence denied.
Already explained in reply to Para B.
- D. Para D of the appeal is incorrect, hence denied.
Already explained in reply to Para B.
- E. Para E of the appeal is incorrect, hence denied.
Pertains to record.

F. Para F of the appeal is incorrect, hence denied.
Pertains to record.

G. Para G of the appeal is incorrect, hence denied.
Respondent no.4 may be allowed to raise additional
grounds at the time of hearing of the instant
appeal.

It is, therefore, humbly prayed that the instant
appeal being against the law and facts, may be dismissed
with costs throughout.

Dated: 17/04/2017

Through

Replying respondent no. 4



ROEEDA KHAN,

&

AFSHA MANZOOR,

Advocate,

High Court Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No. 1023/2016

Abdul Malik

Versus

Govt of KPK etc

REPLY TO THE APPLICATION FOR SUSPENSION

Respectfully Sheweth,

Preliminary objections: -

1. That the applicant has no cause of action to file the instant application.
2. That the order of the respondent no.1 is very much legal.
3. That the application is not maintainable in its present form.
4. Transfer / Posting is part and parcel of service, under section 10 of the Civil Servant Act "any Civil Servant is liable to be transferred in the province in the best public interest"
5. That the applicant has concealed the actual facts from this Honourable Tribunal.
6. That the instant application is badly time barred.

7. That the applicant is stopped by his own conduct to file the instant application.

Reply on facts:

1. Para No. 1 is correct.
2. Para no.2 is incorrect, hence denied. Contents of para wise comments may graciously be considered as part and parcel of the present reply.
3. Para No.3 is incorrect, hence denied. Prima facie case exists in favour of respondent no.4, with balance of convenience.
4. Para No.4 is incorrect. Balance of convenience does not lie in favour of the applicant.
5. Para No.5 is incorrect, hence denied. If the impugned order is set aside, it is respondent no.4, who would suffer irreparable loss.

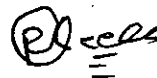
Prayer:

Therefore, it is humbly prayed that the instant application being based on misconception, misstatement, hence may graciously be dismissed with costs.

Dated: 17/04/2017

Through

Replying respondent no. 4



ROEEDA KHAN,

&

AFSHA MANZOOR,

Advocate,

High Court Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR

Service Appeal No. 1023/2016

Ishfaqullah

Versus

Govt of KPK etc

AFFIDAVIT

I, MUHAMMAD ISHFAQ, lecturer in Chemistry, Government Post Graduate College, Mardan, do hereby solemnly affirm and declare on oath that the contents of the instant Written Statement / Para wise comments and reply to the application for suspension, are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.

ATTESTED
Oath Commissioner
Zafoor Khan, Advocate
Distt: Court Peshawar

20 APR 2017

Deponent

CERTIFICATE OF TRANSFER OF CHARGE

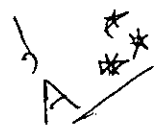
I/We received/hand over the charge of post of Lecturer In
Govt: Post Graduate College Mardan, due to transfer from GPGC Cham
Vide Govt: of Khyber Pakhtunkhwa, Higher Education, Archives & Libraries
Department Notification No. SO (C-II) HE/2-5/16
Dated. Peshawar, the 14-06-2016, with
effect from 20/06/2016, Fore/Noon.

Signature of Relieved: _____

Name in Block Letters: _____

Designation: _____

Station: Govt: Post Graduate College, Mardan

Signature of Relieving:  _____

Name in Block Letters: MUHAMMAD ASHFAQ

Designation: Lecturer in Chemistry

OFFICE OF THE PRINCIPAL, GOVT: POST GRADUATE COLLEGE, MARDAN

Endst: 2567

Dated: 20/06/2016

Copy for information to:

1. Director Higher Education, Khyber Pakhtunkhwa, Peshawar.
2. Section Officer (C-II) Govt: of Khyber Pakhtunkhwa, Higher Education,
Archives & Libraries Department Notification No. SO (C-II) HE/2-5/16
Dated Peshawar, the 14-06-2016.
3. District Accounts Officer Mardan.
4. Personal File of Officer/Official concerned



Principal
Govt; Post Graduate College,
Mardan

PRINCIPAL
Govt: Post Graduate
College MARDAN.

Received a Sum of Rs.
500 cost in the case
1023/16 Mean Ullaly

~~E. J. J.~~
Davis Khan
Advocate
20/4/2017

①

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR

S.A No.1023/2016

Mr IhsanullahPetitioner

VERSUS

Government of KPK and others.....Respondents

REJOINDER TO PARAWISE COMMENTS
OF RESPONDENT NO 1 & 2.

Respectfully Sheweth:

PRELIMINARY OBJECTIONS;

- 1) That reply to para No 1 is incorrect the appellant has cause of action to file instant appeal.
- 2) Reply to Para no 2 is correct but the respondents have violated spouse policy on one side and on the other side ignored the notification dated 27.04.2015 in which it was clearly mentioned that on expiry of leave the officer is likely to return the same post and station, through impugned notification and the respondents have also not shown the reason of exigency, therefore this objection is not applicable over the facts of this case.
- 3) That reply to para no 3 is incorrect the appellant came with clean hands and concealed nothing, from this honorable tribunal.
- 4) That para no 4 is incorrect the appeal is within time.
- 5) That para no 5 is incorrect.

- 2
- 6) Para No 6 is incorrect the tribunal has jurisdiction to entertain the instant appeal.
 - 7) Para no 7 is incorrect.

REJOINDER TO PARAWISE COMMENTS ON FACTS:

- 1) Para No.1 needs no reply.
- 2) That in response Para-2 of parawise comment, it is clearly explained in para no 2 of facts of appeal.
- 3) That in response Para-3 of parawise comment, it is submitted that respondents have violated the spouse policy and also the notification dated 27.04.2015 being issued by them without any reason.
- 4) Para No. 4 needs no reply.

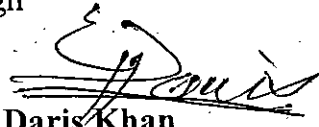
REJOINDER TO PARAWISE COMMENTS ON GROUNDS:

- a) Comments on Ground "A" is incorrect and that of ground of appeal is correct.
- b) Comments on Ground "B" is incorrect, moreover the authority must exercise its power justly, fairly and in advancements of law/policy and rules which is not exercised by them as such, they have issued another notification dated 05.10.2016 through which they have transferred their near and dears (Copy of notification is attached), is the evidence of the their malafide intention.
- c) Submission already made in ground C of appeal, needs no reply.
- d) Already replied in ground B.
- e) Comments on Ground E to G has already replied in above paras.
- f) Comments on ground H needs no reply.

It is therefore, most humbly prayed that on acceptance of this rejoinder, the appeal of the appellant may kindly be accepted/ allowed.

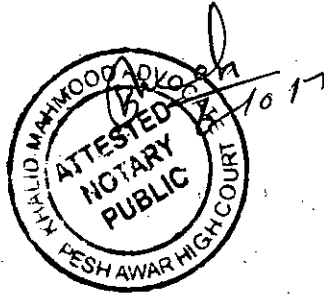
Appellant

Through


Daris Khan
Advocate High Court

AFFIDAVIT

I, Daris Khan Advocate (counsel for petitioner) do hereby affirm and declare as per information furnished by my client that the contents of the instant Rejoinder are true and correct and belief and nothing has been concealed from this Hon'ble Court.




Deponent

(5) (8)

19.	Mr. Zia Ud Din lecturer in Maths	GDC Agra Malakand	GDC Totakan Malakand	AVP
20.	Mr. Qaiser Zaman lecturer in Biology	GDC Daggai Buner	GPGC Dargai Malakand	AVP
21.	Mr. Tilawat Shah	GDC Barkhalozai Bajur Agency	GPGC Mardan	AVP


Note: No T.A / D.A is allowed.

SECRETARY TO
GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION DEPARTMENT

ENDST: NO. & DATE EVEN:

Copy of the above is forwarded to the:

1. Director, Higher Education, Khyber-Pakhtunkhwa, Peshawar.
2. Director FATA Education.
3. All Principals concerned.
4. All District & Agency Accounts Officers concerned.
5. Officers concerned.


 (RAFI ULLAH KHAN)
 SECTION OFFICER (COLLEGES-II)

0989-555336