

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Amended Appeal NO. 345 /2024

M. Ayub

VS GOVT. OF KPK & OTHERS

APPLICATION FOR FIXATION OF THE ABOVE TITLED A. Appeal AT
PRINCIPAL SEAT, PESHAWAR

Respectfully Sheweth:

1. That the above mentioned A. Appeal is pending adjudication before this Hon'ble Tribunal in which no date has been fixed so far.
2. That according to Rule 5 of the Khyber Pakhtunkhwa Service Tribunal Rules 1974, a Tribunal may hold its sittings at any place in Khyber Pakhtunkhwa which would be convenient to the parties whose matters are to be heard.
3. That it is worth mentioning that the offices of all the respondents concerned are at Peshawar and Peshawar is also convenient to the appellant/applicant meaning thereby that Principal Seat would be convenient to the parties concerned.
4. That any other ground will be raised at the time of arguments with the permission of this Hon'ble tribunal.

It is therefore prayed that on acceptance of this application the A. Appeal may please be fixed at Principal Seat, Peshawar for the Convenience of parties and best interest of justice.

Dated: 20/03/24

Through

Appellant/Applicant

~~_____~~
Malik Haider Ali Anwar
Attz

28-03-24

A. Appeal

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL, PESHAWAR.

Appeal No. 345/2024

Muhammad Ayyaz

...APPELLANT

V E R S U S

Director Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar

...RESPONDENTS

AMENDED APPEAL
INDEX

| S.No. | Description of Document | Annexure | Page No. |
|-------|--|----------|----------|
| 1. | Amended Appeal, alongwith affidavit, certificate | - | 1-5 |
| 2. | Suspension Application | | 6-7 |
| 3. | Copy of TRANSFER/ADJUSTMENT ORDER ENDST NO 10718-21 | Z-1 | 8 |
| 4. | /F.No/Trf:CT(T)/2023 Dated:07.12.2023 Copy of order sheet dated | Z-2 | 9-10 |
| 5. | Wakalat Nama already annexed | | |

Dated: - 31 /2024

...Appellant

Through Counsel:


(MALIK HAIDER ALI AWAN)

Advocate High Court, Abbottabad

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**BEFORE THE SERVICES TRIBUNAL, KHYBER
PAKHTUNKHWA PESHAWAR KPK.**

Service Appeal No. 345/2024

Muhammad Ayyaz S/o Muhammad Ashraf R/o Mohallah Rasoliyaan House# 044
PO Nawanshehr Chatri Tehsil and District Abbottabad. (CT,G.H.S Jabbrian,
District Abbottabad).

...APPELLANT

V E R S U S

1. Director Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar.
2. District Education Officer (Male) District Abbottabad.
3. Mr. Zubair Ahmed CT-Government Middle School-Sando Gali Abbottabad Presently (CT,G.H.S Jabbrian, District Abbottabad).

...RESPONDENTS

AMENDED APPEAL

**US 4 SERVICE TRIBUNAL ACT 1973 AGAINST
THE TRANSFER/ ADJUSTMENT ORDER ENDST
NO.8748-53/INQUIRYC-IV-F No.02 DATED 28-10-
2023. ISSUED BY D.E.O (MALE) ABBOTTABAD &
TRANSFER/ADJUSTMENT ORDER ENDST NO
10718-21 /F.No/Trf:CT(T)/2023 Dated:07.12.2023
SAID ORDERS / NOTIFICATIONS ARE ILLEGAL,
AGAINST LAW, VOID AB-INITO AND LIABLE
TO BE SET ASIDE IN THE BEST INTEREST OF
JUSTICE.**

PRAYER:

**ON ACCEPTANCE OF INSTANT APPEAL, THIS
HONORABLE TRIBUNAL MAY SET ASIDE THE
IMPUGNED TRANSFER/ ADJUSTMENT
ORDERS/NOTIFICATIONS DATED 28-10-223 &
07.12.2023 ISSUED BY RESPONDENT NO 2 AND
MAY RESPONDENTS BE DIRECTED TO
TRANSFER/ADJUST APPELLANT BACK TO THE
G.H.S JABRYAAN WHERE ALREADY
APPELLANT WAS POSTED OR ANY OTHER
RELIEF THIS COURT MAY DEEM FIT BE
GRANTED IN FAVOR OF APPELLANT.**

2

Respectfully Sheweth, .

Facts:-

1. That, the Appellant is serving in the education department for last 17 years since 09-04-2005 and performed his duties honestly, efficiently and to the entire satisfaction of his superiors and rules of department.
2. That, the Appellant was posted in the Government High School Jabbriaan District Abbottabad 02 years ago since then he is performed his duties in the said school.
3. That, Appellant filed a 02 complaints against the one Ishtiaq Hussain (Naib Qasid) and one inquiry was conducted in School, one inquiry was conducted by the Deputy Director Education and last inquiry was conducted by the Principal G.H.S.S. No.01 in this regard and Ishtiaq Hussain was found guilty. **(Copies of applications/complaints & inquiry reports are attached for perusal are ALREADY ANNEXED).**
4. That, after above referred inquiries DEO-Abbottabad (Male) along with Ishtiaq Hussain (Head Master) transferred the Appellant illegally against the law and circumstances. **(Transfer impugned ORDER ENDST NO.8748-53/INQUIRYC-IV F No.02 DATED 28-10-2023 ALREADY ANNEXED).**
5. That, on this Appellant filed departmental appeal before the respondent no 01 on 13.11.2023 through post but so far till today they did not respond. **(Copies of departmental appeal ALREADY ANNEXED).**
6. That, Honorable High Court issued direction to Department/Respondent No 01 to decide the fate of appeal pending before him within a month and condoned the limitation period on 06.12.2023 after this direction of

3

Honorable Court one months has been elapsed hence as well as respondent did not obey the order of Honorable High Court, hence appeal is well within time. (Copies of Writ Petition & orders dated 06.12.2023 are ALREADY ANNEXED).

7. That, on 07-12-2023 respondent no 02 after receiving the resignation of Raja Khizar Hayat-CT who was posted at GHS, Jabryaan vide **Transfer impugned ORDER ENDST NO.8748-53/INQUIRYC-IV F No.02 DATED 28-10-2023** instead of restoring the transfer of appellant back at GHS Jabryaan respondent n 02 vide **TRANSFER/ADJUSTMENT ORDER ENDST NO 10718-21 /F.No/Trf:CT(T)/2023 Dated:07.12.2023** transferred posted respondent no 03 at GHS Jabryaan hence the instant order is also being impugned through the amended appeal as directed by the honorable tribunal. (Copy of new transfer posting order of respondent no 03 is annexed as annexure "Z-1").
8. That, feeling aggrieved the Appellant submits the following grounds for cancellation of the said orders on compassionate grounds:-

GR OUNDS:-

1. That, Ishtiaq Hussain (Naib Qasid) was back by the Head Master of the School name Mr. Muhammad Arshad who by deceiving the Appellant took the signature on relieving chit by saying that this is final inquiry report and sign the same for disposal and thereafter gave relieving chit to Appellant which is against the law and fundamental rights of the Appellant hence impugned order is liable to be set aside.
2. That, it is against the spirit of natural justice that complainant is awarded with the same punishment like

4

accused who found guilty during inquiries hence the impugned transfer order is not maintainable.

3. That, impugned order is clearly hitting the self-respect of Appellant and had made stood the Naib Qasid and a Teacher on same footing which is black spot in the history of Education Department.
4. That, it is clearly mention in the findings of Internal and external inquiry reports that Ishtiaq Hussain NQ used to misbehave with the Teachers of the School but management (Head Master) did not take any action against him.
5. That, all inquires clearly suggests that Ishtiaq Hussain NQ is culprit and has been backed by the Head Master but instead of transferring Head Master and Ishtiaq Hussain NQ of GHS Jabbriaan Appellant was transferred from the said School and this has caused Appellant severe mental agony, harassment and humiliation and has also damaged the reputation of a noble profession of Teaching.
6. That, other faculty members of GHS Jabriaan Abbottabad also supported the version of Appellant but was overlooked by the **DEO-ATD (Male)**.
7. That, at this footing the Appellant deserves sympathetic consideration to serve at Jabbriaan School.
8. That, Raja Khizar CT resign from services as mentioned in annexure "D" of main appeal who was transfer posted on the seat of appellant.
9. That, malafide of the respondent no 02 is clear from the other impugned notification that instead of considering the appeal filed by the appellant to restore/transfer back

(5)

appellant he deliberately in a hurry manner posted/transferred other CT respondent no 03 whose transfer is illegal against the law and facts.

10. That, it is humbly submitted that future of profession of Teaching is at stake and pre-mature transfer is illegal void not maintainable.
11. That, matter in question is urgent in nature that's why prior to decision or finding of departmental appeal Appellant assailed the same before this forum.

PRAYER:-

ON ACCEPTANCE OF INSTANT APPEAL, THIS HONORABLE TRIBUNAL MAY SET ASIDE THE IMPUGNED TRANSFER/ ADJUSTMENT ORDERS/NOTIFICATIONS DATED 28-10-223 & 07.12.2023 ISSUED BY RESPONDENT NO 2 AND MAY RESPONDENTS BE DIRECTED TO TRANSFER/ADJUST APPELLANT BACK TO THE G.H.S JABRYAAN WHERE ALREADY APPELLANT WAS POSTED OR ANY OTHER RELIEF THIS COURT MAY DEEM FIT BE GRANTED IN FAVOR OF APPELLANT.

...APPELLANT

Muhammad Ayyaz

Through Counsel:

(MALIK HAIDER ALI AWAN)

Advocate High Court, Abbottabad.

Dated _____

AFFIDAVIT

I, Muhammad Ayyaz S/o Muhammad Ashraf R/o Mohallah Rasoliyaan House# 044 PO Nawanshehr Chatri Tehsil and District Abbottabad. (CT,G.H.S Jabbrian, District Abbottabad) *appellant* do hereby solemnly affirm, and declare that the contents of forgoing **amended service appeal** are true and correct to the best of my knowledge and nothing has been suppressed from this Honourable Court.

...DEPONENT

6

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL, PESHAWAR.**

Appeal No. 345/2024

Muhammad Ayyaz

...APPELLANT

V E R S U S

Director Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar.

...RESPONDENTS

AMENDED APPEAL

**APPLICATION FOR SUSPENSION OF OPERATION OF
IMPUGNED TRANSFER/ ADJUSTMENT ORDER ENDST
NO.8748-53/INQUIRYC-IV-F No.02 DATED 28-10-2023.
ISSUED BY D.E.O (MALE) ABBOTTABAD &
TRANSFER/ADJUSTMENT ORDER ENDST NO 10718-21
/F.No/Trf:CT(T)/2023 Dated:07.12.2023 ISSUED BY
RESPONDENT NO 3 TILL THE DECISION OF PRESENT
REVISION PETITION.**

Respectfully Sheweth;

1. That, appellant filed the titled amended Appeal before this Honorable Tribunal and this application may kindly be read as an integral part of the main Appeal.
2. That there is good prima-facie case in favor of Appellant and there is likelihood of success in title Appeal.
3. That further points shall be raised at the time of arguments before this Hon'ble Court with the prior permission.

PRAYER:

On acceptance of this application, it is prayed that the Impugned TRANSFER/ ADJUSTMENT ORDER ENDST NO.8748-53/INQUIRYC-IV-F No.02 DATED 28-10-2023. ISSUED BY D.E.O (MALE) ABBOTTABAD & TRANSFER/ADJUSTMENT ORDER ENDST NO 10718-21 /F.No/Trf:CT(T)/2023 Dated:07.12.2023 Issued by Respondent No 2, may kindly be suspended till the decision of instant appeal.

Dated: - -2024

...APPELLANT

Through Counsel:

MALIK HAIDER ALI AWAN
Advocate High Court,

7

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICES TRIBUNAL, PESHAWAR.**

Appeal No. 345 /2024

Muhammad Ayyaz

...APPELLANT

V E R S U S

Director Elementary and Secondary Education Khyber Pakhtunkhwa,
Peshawar.

...RESPONDENTS

AMENDED APPEAL

AFFIDAVIT

I, Muhammad Ayyaz S/o Muhammad Ashraf R/o Mohallah Rasoliyaan House# 044
PO Nawanshehr Chatri Tehsil and District Abbottabad. (CT,G.H.S Jabbrian, District
Abbottabad) *Appellant*, do hereby solemnly affirm and declare on Oath that the contents
of instant *Application* are true and correct to the best of my knowledge and belief and
that nothing has been concealed from this Hon'ble Court.

DEPONENT

Dated: -03-2024

IDENTIFIED BY:

MALIK HAIDER ALI AWAN
Advocate High Court,
Abbottabad

⑧ "2/2"

Took over
charge on
9/12/2023

~~MAZ~~
9/12/2023

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) ABBOTTABAD

TRANSFER

Mr. Zubair Khan, CT Govt Middle School Sando Guli ATD is hereby transferred against the vacant post of CT at GHS Jabbrian Abbottabad on his own pay and BPS in the interest of public service with immediate effect.

Note:

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

Sd/xxxx
DISTRICT EDUCATION OFFICER (M)
ABBOTTABAD

Endst: No. 10718-21 /F.No /Trf: CT (M)/2023
Copy to the:-

Dated 07/12/2023

1. Headmaster GHS Jabbrian Abbottabad.
2. Headmaster GMS Sando Gali ATD.
3. District Accounts Officer Abbottabad.
4. Assistant Director EMIS Branch Local Office.
5. Official Concerned.


DY: DISTRICT EDUCATION OFFICER (M)
ABBOTTABAD

02/22

9



**BEFORE THE SERVICES TRIBUNAL KHYBER
PAKHTUNKHWA PESHAWAR KPK**

Service Appeal No. 345/2024

Muhammad Ayyaz S/o Muhammad Ashraf R/o Mohallah
Rasoliyaan House # 044 P.O Nawanshehr Chatri Tehsil and
District Abbottabad (CT, G.H.S Jabbrian, District Abbottabad)

Appellant

VERSUS

District Education Officer (Male) District Abbottabad.

Respondent

**APPEAL U/S 4 OF KP SERVICES
TRIBUNAL ACT 1974 AGAINST THE
TRANSFER/ADJUSTMENT ORDER ENDST
NO. 8748-53/INQUIRY C-IV-F NO. 02
DATED 28/10/2023 ISSUED BY D.E.O
(MALE) ABBOTTABAD SAID
ORDER/NOTIFICATION IS ILLEGAL,
AGAINST LAW, VOID-AB-INITIO AND
LIABLE TO BE SET ASIDE IN THE BEST
INTEREST OF JUSTICE.**

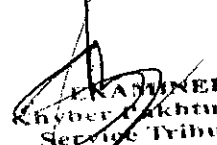
Prayer:

On acceptance of instant petitioner/appeal, this Hon'ble Court may set aside the impugned transfer/adjustment order/notification dated 28/10/2023 issued by respondent No.2 and may respondents be directed to transfer/adjust appellant back to the G.H.S Jabryaan where already appellant was posted or any other relief this court may deem fit be granted in favour of appellant.

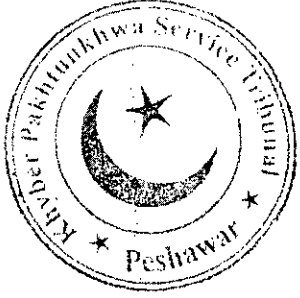
Respectfully Sheweth:

1. That, the appellant is serving in the education department for last 17 years since 09/04/2005 and performed his duties honestly, efficiently and to the entire satisfaction of his superiors and rules of department.

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

13.03.2024

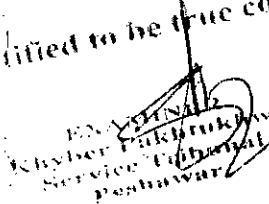


Learned counsel for the appellant present and stated that vide impugned order dated 28.10.2023, Raja Khizar CT was transferred against the post earlier held by the appellant at GHS Jabbrian Abbottabad, therefore, he is a necessary party, therefore, time may be granted to the appellant for his impleadment as respondent by way of submitting amended appeal. He may submit the same within a week and to come up for preliminary hearing on 25.03.2024 before the S.B. Parcha Peshi given to the parties.


(Salah-ud-Din)
Member (J)

Nazem Amin

Certified to be true copy


Nazem Amin
Kyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 19-3-24

Number of Words 228

Copying Fee 70/-

Urgent 5/-

Total 75/-

Name of Ct. _____

Date of Ct. 19-3-24

Date of Delivery of Copy 19-3-24