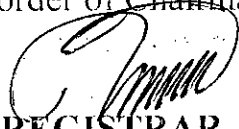


FORM OF ORDER SHEET

Court of _____

Appeal No. 469/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	29/03/2024	<p>The appeal of Mr. Muhammad Ilyas refiled today by registered post through Mr. Muhammad Arshad Khan Tanoli Advocate. It is fixed for preliminary hearing before touring Single Bench at A.Abad on 23.04.2024. Counsel for the appellant has been informed telephonically.</p> <p>By the order of Chairman</p>  <p>REGISTRAR</p>

Respected Sir,

It is submitted that the present appeal was received on 02.01.2024, which was returned to the counsel for the appellant for removing objections (Flag-A). Today i.e. 17.01.2024 the learned counsel re-filed the appeal through registered post without removing the objections.

The appeal is now submitted to your honor under rules 7 (c) of the Khyber Pakhtunkhwa Service Tribunal rules 1974 for appropriate order please.


REGISTRAR

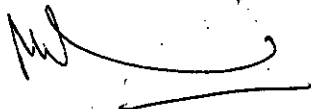
Worthy Chairman

*7 days time
the request is granted the appeals
counsel is to send both
to send*

19/2/24

No. 380
19-2-24

objections removed
Accordingly. File received
on 29-2-2024



5-3-2024

Departmental not attached-

Siv

departmental appeal, order
of Perbandar high court bench
is already attached at Page No 22

AKHAT

The appeal of Mr. Muhammad Ilyas received today i.e on 02.01.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and submission within 15 days.

- ① Annexures A, B and page no. 34 of the appeal are illegible be replaced by legible/better one.
- ② Copy of departmental appeal is not attached with the appeal be placed on it.

No. 37 /S.T.

DT. 4/1 /2024.




REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Muhammad Arshad Khan Tanoli Adv.
High Court at A. Abad.

Sir, Case is resubmitted
July corrected as desired.

Muhammad Ilyas (Muhammad Ilyas)
13.1.24 Khan Advocate

Copy of Registry will
be received on 10/01/24.
Copy of Envelope are
attached.



Muhammad Arshad Khan Tanoli
Advocate, High Court of Pakistan
Office # 33 Jinnah Plaza Adjacent to
Distt. Bar, Abbottabad

BEFORE THE HONOURABLE SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR

Service appeal No. 469 /2023

Muhammad Ilyas IPE GHSS No. 1, Abbottabad.

...APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar & others.

....RESPONDENTS

SERVICE APPEAL

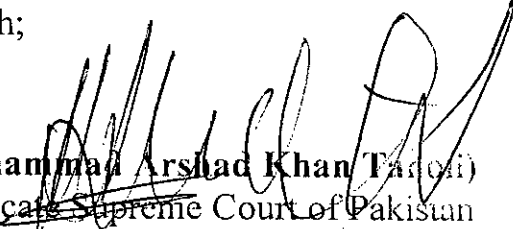
INDEX

S.#	Description	Page No.	Annexure
1.	Service appeal along with affidavit	1 to 9	
2.	Copy of posting order of the appellant from GHSS Bodla to GHSS No. 1 Abbottabad dated 14/04/2023	10	"A"
3.	Copy of impugned posting order from GHSS No. 1 Abbottabad to GHSS Bodla dated 09/05/2023	11	"B"
4.	Copy of letters of political figures addressed to Minister Education, Khyber Pakhtunkhwa, Peshawar	12-14	"C"
5.	Copy of writ petition and order dated 14/06/2023	15-22	"D"
6.	Copy of reply of department.	23-32	"E"
7.	Copy of posting/transfer policy	33-34	F
8.	Wakalatnama	35	

...APPELLANT

Through;

Dated: 29/12 /2023


(Muhammad Arshad Khan Tareqi)
Advocate Supreme Court of Pakistan
At Abbottabad


(Muhammad Ibrahim Khan)
Advocate High Court, Abbottabad

BEFORE THE HONOURABLE SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR

Service appeal No. 469 /2027

Muhammad Ilyas IPE GHSS No. 1, Abbottabad.

...APPELLANT

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. Secretary Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. Director Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
4. District Education Officer (Male), Abbottabad.
5. Wali Ullah IPE BPS-17 GHSS No. 1, Abbottabad.

...RESPONDENTS

SERVICE APPEAL UNDER SECTION 4 OF
KPK SERVICE TRIBUNAL ACT, 1974 FOR
DECLARATION TO THE EFFECT THAT
APPELLANT WAS TRANSFERRED FROM
GHSS BODLA ABBOTTABAD TO GHSS NO.
1, ABBOTTABAD CITY VIDE TRANSFER

ORDER DATED 14/04/2023. BUT DUE TO POLITICAL PRESSURE EXERTED BY RESPONDENT NO. 5 GOT CANCELLED THE POSTING ORDER OF THE APPELLANT DATED 14/04/2023 AND THE APPELLANT WAS POSTED FROM GHSS NO. 1 ABBOTTABAD CITY TO GHSS BODLA ABBOTTABAD VIDE IMPUGNED ORDER DATED 09/05/2023 WHICH IS POLITICALLY MOTIVATED, ILLEGAL, AGAINST THE TENURE POLICY AS WELL AS SPOUSE POLICY AS WIFE OF THE APPELLANT IS SERVING AS PHC TECHNICIAN IN BHU KAKUL ABBOTTABAD AND POSTING OF THE APPELLANT IS 100 MILES AWAY FROM PLACE OF HIS SPOUSE. THEREFORE, IMPUGNED NOTIFICATION DATED 09/05/2023 IS LIABLE TO BE SET-ASIDE.

PRAYER: ON ACCEPTANCE OF THE INSTANT SERVICE APPEAL, THE IMPUGNED NOTIFICATION/POSTING ORDER DATED 09/05/2023 FROM GHSS NO. 1, ABBOTTABAD TO GHSS BODLA

ABBOTTABAD MAY GRACIOUSLY BE
ORDER TO BE SET-ASIDE AND RESTORE
POSTING/TRANSFER ORDER DATED
14/04/2023. ANY OTHER RELIEF WHICH THIS
HONOURABLE TRIBUNAL DEEM
APPROPRIATE IN THE CIRCUMSTANCES OF
THE CASE MAY ALSO BE GRANTED TO THE
APPELLANT.

Respectfully Sheweth;

Facts forming the back grounds of instant service
appeal are arrayed as under;-

1. That the Appellant is serving as IPE (Instructor Physical Education) (Male) BPS-17 and total rendered high is near about 29 years. The appellant was posted from GHSS Bodla to GHSS No. 1, Abbottabad vide order dated 14/04/2023. Copy of posting order of the appellant from GHSS Bodla to GHSS No. 1 Abbottabad dated 14/04/2023 is attached as Annexure "A".
2. That after a period of one month the appellant has been transferred from GHSS No. 1 Abbottabad to

GHSS Bodla vide impugned order dated 09/05/2023. Copy of impugned posting order from GHSS No. 1 Abbottabad to GHSS Bodla dated 09/05/2023 is attached as Annexure "B".

3. That the impugned posting order dated 09/05/2023 is politically motivated and respondent No. 5 exerted political pressure on the respondents' department and finally got the appellant transferred from GHSS No. 1 Abbottabad to GHSS Bodla vide impugned order 09/05/2023. Copy of letters of political figures addressed to Minister Education, Khyber Pakhtunkhwa, Peshawar are annexed as Annexure "C".

4. That the appellant filed writ petition No. 801-A/2023 before Peshawar High Court Bench Abbottabad regarding setting-aside the impugned posting order dated 09/05/2023 which was converted into departmental appeal by the Honourable High Court vide order dated 14/06/2023. Copy of writ petition and order dated 14/06/2023 is attached as Annexure "D".

5. That thereafter, respondents' department could not obey the order dated 14/06/2023 of Peshawar High Court Abbottabad Bench. Thereafter, the appellant filed COC criminal petition before the Peshawar High Court, Abbottabad Bench, wherein respondent department submitted reply and COC No. 99-A/2023 of the appellant was disposed off by the Honourable Peshawar High Court, Abbottabad Bench with direction to the appellant to file fresh petition vide order dated 21/12/2023 and reply of department are annexed as Annexure "E".

6. That the appellant came to know the reply of respondents submitted by them on 21/12/2023 during contempt petition No. 99-A/2023 at Peshawar High Court, Abbottabad. Hence, the instant service appeal is filed inter-alia on the following grounds:-

GROUND:-

a) That the posting of the appellant as per posting order dated 09/05/2023 is premature and politically motivated. The respondent

NO. 5 exerted political pressure on respondents' department and respondent succumbed to the illegal demand of respondent No. 5 which is clear violation of transfer/posting policy as well as judgment of Supreme Court of Pakistan reported in 2013 PLD SC 195. Copy of posting/transfer policy

is

attached as Annexure "F".

- b) That the posting/transfer order of the appellant dated 14/05/2023 is void and void ab initio because record reveal that the posting order of the appellant is absolutely made on political intervention.

- c) That the spouse of the Appellant is serving as PHC Technician in BHU Kakul, Abbottabad whereas the posting of the appellant is 100 miles away from the place of posting of spouse of the appellant. Hence, it is not possible for the appellant to look after his family and dependant children from far flung hilly area. It is further submitted

that mother of the appellant is cardiac patient and is weak and needs constant care.

- d) That the appellant underwent surgical operation of his abdomen and is suffering from visionary disease of his left eye and the appellant is patient of hypertension and blood pressure as well. Therefore, it is hardly possible for him to serve in top mountainous hilly area where the scarcity/low pressure of oxygen is always there.
- e) That matter pertains to terms of condition of service of the appellant therefore this Honourable Tribunal has jurisdiction to entertain the appeal of the appellant under Section 212(2) of constitution of Islamic Republic of Pakistan, 1973.
- f) That the other grounds shall be urged at the time of arguments.

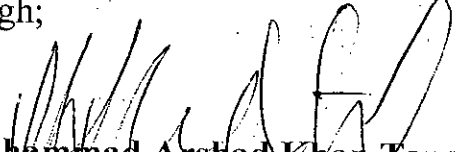
It is respectfully prayed that on acceptance of the instant service appeal, the impugned notification (posting order) dated 09/05/2023 from GHSS No. 1,

Abbottabad to GHSS Bodla Abbottabad may graciously be order to be set-aside and restore posting/transfer order dated 14/04/2023. Any other relief which this Honourable Tribunal deem appropriate in the circumstances of the case may also be granted to the appellant.

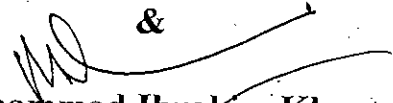

...APPELLANT

Through;

Dated: 29/12/2023


(Muhammad Arshad Khan Tanoli)
Advocate Supreme Court of Pakistan
At Abbottabad

&


(Muhammad Ibrahim Khan)
Advocate High Court, Abbottabad

VERIFICATION:-

Verified on oath that the contents of foregoing service appeal are true and correct to the best of our knowledge and belief and nothing has been concealed therein from this Honourable Court.


...APPELLANT

BEFORE THE HONOURABLE SERVICE TRIBUNAL,
KHYBER PAKHTUNKHWA, PESHAWAR

Service appeal No. _____/2023

Muhammad Ilyas IPE GHSS No. 1, Abbottabad.

...APPELLANT

VERSUS

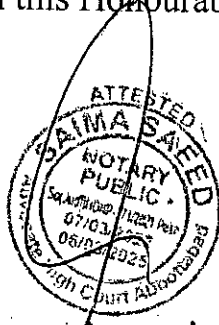
Govt. of Khyber Pakhtunkhwa through Chief Secretary, Khyber
Pakhtunkhwa, Peshawar & others.

....RESPONDENTS

SERVICE APPEAL

AFFIDAVIT

I, *Muhammad Ilyas IPE GHSS No. 1, Abbottabad*, do hereby
solemnly affirm and declare that the contents of forgoing appeal are true and
correct to the best of my knowledge and belief and nothing has been
concealed therein from this Honourable Court.



29/12/23


DEPONENT



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone No. 91512111 Email: peshawar@kpk.gov.pk**

Ann X-A

P-10

CS CamScanner

NOTIFICATION

Peshawar, Dated 14.04.2023

NO.SOS/DEASED/S-17/2023/PT/G1 The posting/transfer of the following officers are hereby ordered with immediate effect, in the best public interest:-

Sl	Name & designation	From	To	Remarks
1	Mr. Ali Gohar SS Pabco (BS-17)	GHSS Chamtar Marjan	GHSS Monazar ulad Marjan	Against the vacant post of SS Pabco
2	Mr. Wali Ullah IPE (BS-17)	GHSS No.1 Abbottabad	GHSS Daska Abbottabad	Vice Sr.No. 1 on IPE
3	Mohammad Raza IPE (BS-17)	GHSS Daska Abbottabad	GHSS No.1 Abbottabad	Vice Sr.No. 2 on IPE
4	Mr. Yaseer Khan SS Math (BS-17)	GHSS Chardrawn D I Khan	GHSS Kira Atal Sharaf Ul Khan	Against the vacant post of H.M
5	Mohammad Zaki Khan SS Chemistry (BS-17)	GHSS Manki Sharif Nowshera	GHSS Shah Uzar Khel Lakki Marwat	Against the vacant post of SS-IT
6	Mr. Malik Nawaz Khan SS English (BS-17)	GHSS Bangi Khan Khajuri Bannu	Karim Khel Bakka Khel Bannu	Vice Sr.No. 7 SS English
7	Ali Akbar Khan SS English (BS-17)	Nazmi Khel Bakka Khel Bannu	GHSS Bangi Khan Khajuri Bannu	Vice Sr.No. 6 SS English
8	Mohammad Taher Khan SS Physics (BS-17)	GHSS Sispore Swat	GHSS Bahadar Khel Karak	Against the vacant post of SS Physics
9	Mr. Khalid Khan SS Chemistry (BS-17)	GHSS Bachkora Ahmad Zai	GHSS Ajmal Barikshai Dand Shah Bannu	Against the vacant post of SS Chemistry
10	Mr. Akbar Khan SS Statistics (BS-17)	GHSS Barikshai Dand Shah Bannu	GHSS Khoro Khel Pakka Lakki Marwat	Against the vacant post of SS Statistics
11	Mr. Umar Hayat Khan SS English (BS-17)	GHSS Ajmal Barikshai Bannu	GHSS Daska Banga	Against the vacant post SS English
12	Mr. Faqeer Nawaz SS English (BS-17)	GHSS Naror Bannu	GHSS Ajmal Barikshai Dand Shah Bannu	Vice Sr.No. 11 SS English
13	Mr. Gul Wahid SS Chemistry (BS-17)	GHSS Milan Kaly (Dir Lower)	GHSS Garzai Bajaur	Against the vacant post of SS Chemistry
14	Mr. Saleem SS ITC/Trics (BS-17)	GHSS Mindam Swat	GHSS Rakat Kot Swat	Against the vacant post of H.Chief

**SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA
E&SE DEPARTMENT**

Order of even No. & Date

Copy forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
3. Director, EMIS E&SE Department.
4. District Education Officer (M) Concerned.
5. District Accounts Officer (Concerned).
6. PS to Advisor to CM, E&SE Department.
7. PS to Secretary E&SE Department.
8. PA to Additional Secretary (Estab) E&SE Department.
9. Officer Concerned.
10. Office order file.

Muhammad Ishaq
(MUHAMMAD ISHAQ)
SECTION OFFICER (SCHOOLS MALE)

Attd
Attd



Annex-B

Peshawar, Dated 09th .05.2023

P-11

NOTIFICATION

NO.SO(S/ME&SE)/5-17/2023/MT/SS: The following transfer/posting are hereby ordered with immediate effect, in the best public interest:-

S. No	Name	Designation	From	To	Remarks
3.	Mr.Wali Ullah	IPE (BS-17)	GHSS Bodla Abbottabad	GHSS No.1 Abbottabad	Vice S.NO.2
4.	Mr.Muhammad Ilyas	IPE (BS-17)	GHSS No.1 Abbottabad	GHSS Bodla Abbottabad.	Vice S.NO.1

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

Endst: of even No. & Date

Copy forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
3. Director, EMIS E&SE Department.
4. District Education Officer (M) Concerned.
5. District Accounts Officer Concerned.
6. Principal Concerned.
7. PS to Advisor to CM for E&SE Department.
8. PS to Secretary E&SE Department.
9. PA to Additional Secretary (Estab) E&SE Department.
10. Officer Concerned.
11. Office order file.

A. H. H. H.

(MUHAMMAD ISHAQ)
SECTION OFFICER (SCHOOLS/MALE)

Annex - C

P-12



جمعیۃ علماء اسلام ضلع ایبٹ آباد



JAMIAT ULAMA ISLAM ABBOTTABAD

تاریخ: 17-04-2023

محترم جناب راجت علی وزیر تعلیم

السلام علیکم ورحمۃ اللہ

بعد از سلام سنون عمر میں سے حاصل وقوع

ولی اسٹوڈنٹ ہمارے جماعت کے مستقل رکن ہیں۔ GHS سے

سے GHS بورڈ ٹرانسفر ہو چکے ہیں۔ حالانکہ ان کا سر صہ تعیناتی بھی

مکمل نہیں ہے۔

ایڈیشنل سیکرٹری ہائی ٹیچنگ ڈیپارٹمنٹ، ایبٹ آباد
ڈی ایچ او، ایبٹ آباد

میرا احتراماً

G. Mujtaba

0300-5617632

جنرل سیکرٹری، ضلع ایبٹ آباد

Attached
with

Contacts: 0300-5617632 / 0321-3836442 / 0321-9808668

۲۱۳



جمعیت علماء اسلام ضلع ایبٹ آباد



Jamiat Ulama e Islam Abbottabad

تاریخ: 18-04-2023

حوالہ نمبر: _____

بائے بجا

محترم و مکرم جناب سلام خشک صاحب

وزیر تعلیم برائے ایلیمنٹری اینڈ سیکنڈری ایجوکیشن خیبر پختونخوا

آئید ہے کہ جناب صحت و عافیت سے یوں کے۔

السلام علیکم ورحمۃ اللہ وبرکاتہ۔

حال رقمہ ولی اللہ خان (IPE) جن کا پرسل نمبر 00936214 ہے، سے ان کا مسئلہ معلوم ہوا۔ چونکہ تازہ نامی یہ اس مسئلہ میں حق بجانب ہیں۔ اور بعد از تحقیق بندہ کو ان کا مسئلہ Genuine معلوم ہوتا ہے۔

لہذا بندہ آپ سے گزارش کرتا ہے سائل مذکورہ کے مسئلہ کو حل فرمایا جائے۔ تاکہ سائل مذکورہ اپنے فرائض منصبی کو مناسب طور پر ادا کر سکے۔

جداک اللہ خیر الحسن، الجراء

والسلام

(مولانا قاری) امیس الرحمن قریشی

امیر جمعیت علماء اسلام ضلع ایبٹ آباد

03219808668

0345-2600111

P-14

Jamiat Ulama Islam
Khyber Pakhtoonkhawa



جمعیۃ علماء اسلام پاکستان
ضو بہ خیر پختونخوا

مورخہ 28/4/2023

محترم جناب رحمت سلام خٹک صاحب صوبائی وزیر تعلیم خیر پختونخوا
سلام مستنون

گزارش ہے کہ دہلی اللہ (IPE) کا ٹرانسفر جی ایچ ایس ایس ایس آباؤ نمبر 1 سے جی ایچ ایس ایس ایس بولدہ ہو چکا ہے ہمارے جماعتی ساتھی
ہے ان کے ٹرانسفر پر ہمیں اور مقامی جماعت کو تشویش ہے التماس ہے کہ ان کے ٹرانسفر کنسلیشن کے احکامات صادر فرمائے۔

At the end

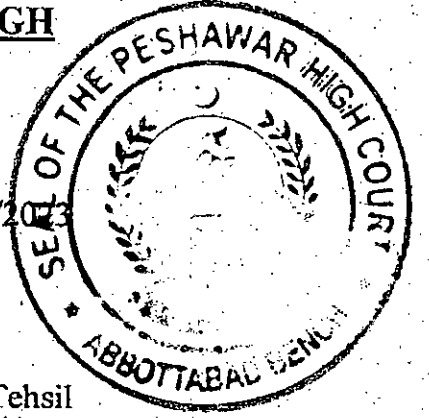
مسئد الامام
(مولانا) عطاء الحق درویش

جنرل سیکرٹری

جمعیۃ علماء اسلام خیر پختونخوا

Head Office: Mufti Mahmood Markaz Ring Road Peshawar

BEFORE THE HONOURABLE PESHAWAR HIGH COURT (CIRCUIT BENCH) ABBOTTABAD.



W.P No. 801-A/2023

Annex-B P-15

Mr. Muhammad Ilyas S/o Safdar Jang resident of Narah, Tehsil Havelian District Abbottabad.

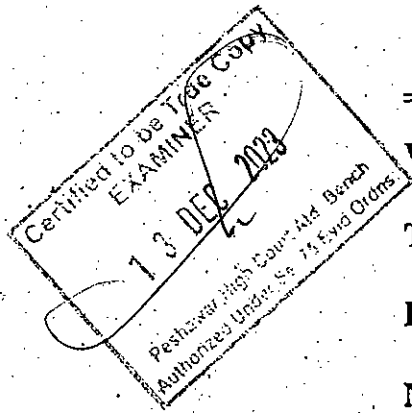
(Petitioner)

VS

1. The Govt of KPK through Secretary Elementary and Secondary Education (E&SE) Block-A, 3rd Floor, Building A, Civil Secretariat Peshawar. (Ph.No. 091-9223477)
2. The Director (E&SE) Hashtnagri Chowk, Near Qalla Bala Hisar Peshawar (Ph. No: 091-9225340, 091-9225341)
3. The District Education officer (DEO) Male E&SE District Abbottabad, Office near AC office, District Kutchery, Abbottabad. (Ph No:0992-921102).
4. Principal GHSS No. 1 Boys Abbottabad.
5. Principal GHSS Budla Abbottabad.

(RESPONDENTS)

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN 1973, THAT THE NOTIFICATION / ORDER DATED MAY 09th,



FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH

NOTIFICATION / ORDER DATED MAY 09th,
 2023 MAY PARTIALLY BE CANCELLED TO
 THE EXTENT OF OFFICERS AT SERIAL NO.
 1 & 2, BEING ILLEGAL, AGAINST THE
 LAW, DEPARTMENTAL POLICY,
 UNLAWFUL, VOID & DISCRIMINATORY.

P/16

PRAYER: ON THE ACCEPTANCE OF THIS
 WRIT PETITION, THE NOTIFICATION /
 ORDER DATED MAY 09th, 2023 MAY
 PARTIALLY BE CANCELLED TO THE
 EXTENT OF OFFICERS AT SERIAL NO. 1 &
 2, OR ANY OTHER RELIEF WHICH THIS
 COURT MAY DEEMS FIT AND PROPER BE
 ORDERED IN FAVOUR OF THE
 PETITIONER.

Respectfully Sheweth:

1. That the petitioner has been working in
 Education department since 01-01-1995 and
 has been rendering his services as PHC
 Technician (MP) BPS-17 in Elementary and
 Secondary Education (E&SED) KPK.

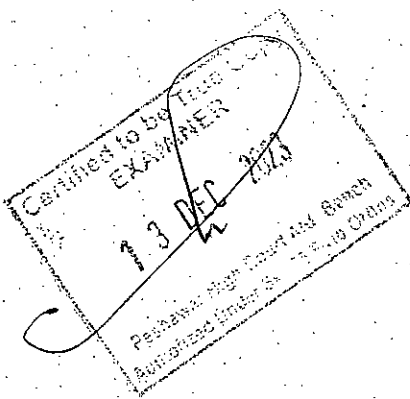
FILED TODAY
 ADDITIONAL REGISTRAR
 PESHAWAR HIGH COURT
 ABEOTTALEAD BENCH
 2/1/23

2. That , on 14-04-2023, vide notification No. SO(S/M) E&SED/5-17/2023/PT/G transfer from GHSS Bodla Abbottabad to GHSS No.1 Abbottabad , (Copy of Notification dated 14-04-2023 is Annexed as Annexure A).

P-17

3. That, upon the above mentioned notification, the petitioner took charge at his proposed placed of posting. i-e, GHSS No.1 Abbottabad with full zeal and dedication .

4. That, the elementary and Secondary Education Department due to reasons well known to them, just after lapse of 27 days issued a corrigendum notification on may 09th, 2023 and subsequently petitioner was transferred malafiedly due to political influence of the respondents No.1&2 from GHSS No.1 Abbottabad to GHSS Bodla Abbottabad. (Copy of Corrigendum Notification dated 06th May, 2023 is annexed as Annexure B).



FILED TODAY
 ADDITIONAL REGISTRAR
 PESHAWAR HIGH COURT
 ABBOTTABAD BENCH
 20/12/23

5. That, the above whole scenario is the worst example of how the Govt departments works

under the flag of political pressure, nepotism, corruption and favoritism.

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Therefore, the notification orders dated 09th May, 2023 is liable to be struck down on the basis of the following grounds:-

GROUND:

- a. That the petitioner is aggrieved party and facing discrimination on the part of the respondents.
- b. That the act of the respondents is based on malafide and against the department procedure violating all the rules of their department.
- c. That the transfer / posting of appellant is suffering from patent illegality which invokes the constitution jurisdiction of this Honourable Court.
- d. That the pick and choose policy is severely andemned by the law and the instant matter falls under the ambit of a pick and choose policy against one individual i.e petitioner.

FILED TODAY
 ADDITIONAL REGISTRAR
 PESHAWAR HIGH COURT
 ABBOTTABAD BENCH
 20/5/23

FILED TODAY
 ADDITIONAL REGISTRAR
 PESHAWAR HIGH COURT
 ABBOTTABAD BENCH
 20/5/23

e. That the other grounds shall be agitated at the time of arguments.

P-19

f. That the petitioner's wife is doing job as (MP)BPS-14 at Basic Health Unit kakul since 01-01-1995. (Copy is attached with service certificate and wed lock policy as annexure "C").

It is, therefore, humbly prayed that on the acceptance of this writ petition, respondent No.1&2 be directed to decide the departmental Writ Petition of the petitioner by passing speaking order U/A 24 General Claims act with in period of 30 days.

INTERIM RELIEF:

As interim relief it is humbly prayed that the Notification No. SO(SM)E&SED/ 5-17/2023/ PT/SS dated 09-05-2023 may kindly be suspended till the disposal of the writ petition pending before the respondent No. 1 & 2.

Dated: 7-06-2023

.....Petitioner

Through

Hina
HINA J.I KHAN
Advocate High Court
Abbottabad

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
8/6/23

P-2a

VERIFICATION:

Verified that the contents of forgoing Writ Petition are true and correct to the best of my knowledge and belief and nothing material has been suppressed from this Hon'ble Court.

Dated: 07-06-2023

.....Petitioner

Thibys Careel

Haver

SWORN TO be true COPY
EXAMINER
13 DEC 2023
Peshawar High Court and Bench
Authorized Under Sec 75 E and G of Ord.

FILED TODAY
ADDITIONAL JUDGE
PESHAWAR HIGH COURT
ABBOT ABAD BENCH
A D 10/11

~~BEFORE THE HONOURABLE PESHAWAR HIGH COURT ABBOTTABAD BENCH~~

P-21

W.P. No. _____/2023

Mr. Muhammad Ilyas S/o Safdar Jang resident of Narah, Tehsil Havelian District Abbottabad.

(Petitioner)

VS

The Govt of KPK through Secretary Elementary and Secondary Education (E&SE) & others

.....RESPONDENTS

WRIT PETITION

AFFIDAVIT:

I, Mr. Muhammad Ilyas S/o Safdar Jang resident of Narah, Tehsil Havelian District Abbottabad, do hereby solemnly affirm and declare on oath that the contents of instant writ petition are true and correct to the best of my knowledge and belief and nothing has been concealed intentionally therein.

Dated: 05/06/2023

13101. 6043307-3

.....Deponent

Stamp: ORIGINAL TO THE COURT, PESHAWAR, 7.9 DEC 2023, Peshawar High Court And Bench, Abbottabad Under Sec. 24 E of Ord. 1962

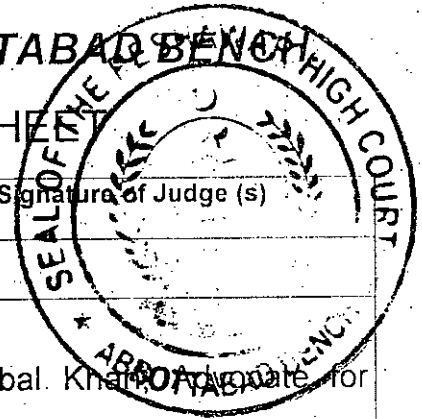
3601/85 Receipt No: 80
I, the above was verified on solemnly sworn before me on this 5 day of June 2023 by Mr. Ilyas S/o Safdar Jang who is personally known to me

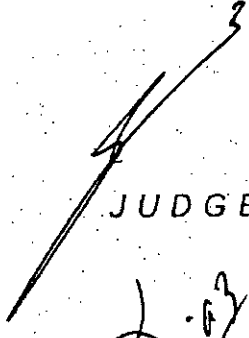

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23

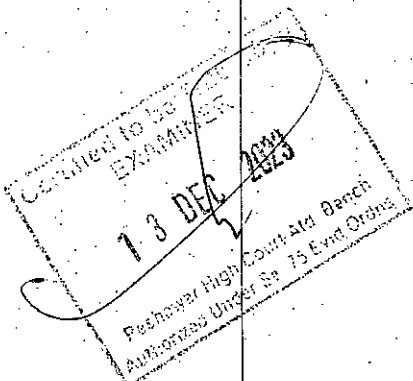
FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
[Signature]

PESHAWAR HIGH COURT, ABBOTTABAD BENCH

FORM OF ORDER SHEET



Date of Order of Proceedings	Order or other Proceedings with Signature of Judge (s)
1	2
14.06.2023	<p><u>W.P.No.801-A/2023.</u></p> <p>Present: Ms. Hina Javed Iqbal Khan Advocate for petitioner.</p> <p style="text-align: right;">***</p> <p style="text-align: right; font-size: 2em;">P-22</p> <p><u>WIQAR AHMAD, J.-</u> After arguing the case for a while, learned counsel for petitioner agreed that let grievance of petitioner be placed before Chief Secretary, Khyber Pakhtunkhwa Peshawar for consideration. We accordingly order conversion of this writ petition into departmental appeal filed before Chief Secretary, Khyber Pakhtunkhwa Peshawar. Office is directed to send a copy of this petition alongwith this order to Chief Secretary, Khyber Pakhtunkhwa Peshawar for consideration, in accordance with law, who is directed to decide same within fifteen (15) days of receipt of this order.</p> <p>2. This petition stands disposed of in above terms.</p> <p>Announced 14.06.2023</p> <div style="text-align: right; margin-top: 20px;">  JUDGE </div> <div style="text-align: right; margin-top: 20px;">  JUDGE </div>



Annex-E

BEFORE THE PESHAWAR HIGH COURT ABBOTTABAD BENCH

P-23

COC NO. 99-A/2023

IN

W.P No. 801-A/2018

Muhammad Ilyas.....Petitioner

VERSUS

Govt of KPK & Others..... Respondents

REPLY ON BEHALF OF RESPONDENTS NO. 01 & 02

INDEX

Sr.#	Description	Page No's	Annexure
1	Reply alongwith Affidavit	01 to 03	
2	Copy of Note for Worthy Chief Secretary dated 11-08-2022	04	"A"
3	Copy of letter dated 19-10-2023	05	"B"
4	Copy of report of respondent No. 02 dated 26-10-2023	06	"C"

Dated: 15/11/2023

Chaudhary
Principal
GHSS Bodla
Abbottabad.
(Respondent No. 02)

General Advocate General
Abbottabad

Israr Ahmed
16/11/23

FILED TODAY

ADDITIONAL REGISTRAR
P.H.C. ABBOTTABAD BENCH
15/11/23

Altaf
[Signature]

P-24

BEFORE THE PESHAWAR HIGH COURT ABBOTTABAD BENCH

COC NO. 99-A/2023

IN

W.P No. 801-A/2023

Muhammad Ilyas.....Petitioner

VERSUS

Govt of KPK & Others..... Respondents

JOINT PARAWISE REPLY ON BEHALF OF RESPONDENTSRespectfully Sheweth:

Reply on behalf of respondent is submitted as under:

1. In reply to Para No. 1 of the petition it is submitted that this Honorable Court converted the writ petition into departmental appeal filed before worthy Chief Secretary Khyber Pakhtunkhwa Peshawar for consideration in accordance with law and writ petition stands disposed of.
2. That Para No.2 of the petition as composed is incorrect hence, denied and not admitted. In pursuance to the directions of this Honorable Court vide dated 14-06-2023 in WP No. 801-A/2023, respondent No. 01 moved Note for worthy Chief Secretary for decision of departmental appeal of petitioner on 11-08-2023. Furthermore, respondent No. 02 was directed vide letter dated 19-01-2023 to allow the petitioner to join his duty station and submit detail report. In response to letter dated 19-10-2023 respondent No. 02 submitted report vide No. 129 dated 26-10-2023, wherein he stated that petitioner did not take over the charge of his duty at Govt Higher Secondary School Bodla Abbottabad till date as he is not interested to take over the charge up till 26-10-2023. As the petitioner is not working at Govt Higher Secondary School Bodla Abbottabad, hence, his pay has been stopped by the respondent No. 02. (Copy of Note for Worthy Chief

No 2221
15-11-23

FILED TODAY

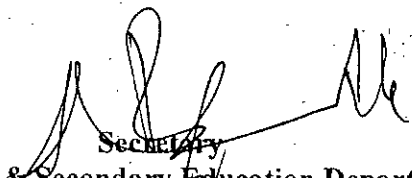
ADDL REGISTRAR
P.H.C. ABBOTTABAD BENCH

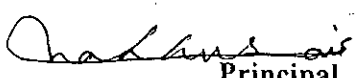
Secretary dated 11-08-2022, letter dated 19-10-2023 and report of respondent No. 02 dated 26-10-2023 is annexed as Annexure "A", "B" & "C" respectively)

3. That the Para No. 3 of the petition as composed is incorrect hence, denied as complete reply has already been given in Para No. 02 of the factual objections.
4. That the Para No. 4 of the petition as composed is incorrect hence, denied and Instant petition has become infructuous as the answering respondents never disobeyed the order of this Honorable Court and cannot even think about non-compliance of directions of this Honorable Court.
5. That the Para No. 05 of the petition as composed is incorrect hence, denied.

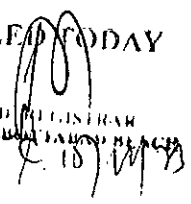
PRAYER:

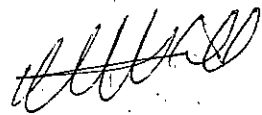
In light of the above stated facts and circumstances, it is very humbly prayed that the Instant COC Petition may kindly be dismissed as the same has becomes infructuous.


 Secretary
 Elementary & Secondary Education Department
 Khyber Pakhtunkhwa Peshawar
 (Respondent No.1)


 Principal
 Government Higher Secondary School Bodla
 Abbottabad.
 (Respondent No. 02)

FILED TODAY


 ADDL REGISTRAR
 P.H. ABBOTTABAD
 2.10.23



BEFORE THE PESHAWAR HIGH COURT ABBOTTABAD BENCH

COC NO. 99-A/2023

IN

W.P No. 801-A/2018

Muhammad Ilyas.....Petitioner

VERSUS

Govt of KPK & Others..... Respondents

JOINT PARAWISE REPLY ON BEHALF OF RESPONDENTS

AFFIDAVIT

I, Mr. Syed Shah Hussain Shah, Principal Government Higher Secondary School Bodla Abbottabad, do hereby affirm and declare on oath that the contents of forgoing Reply are correct and true according to the best of knowledge and belief and nothing has been suppressed from this Honorable Court.

Syed Shah Hussain Shah
DEPONENT

7201-209288-3

Identified by,

Zaheer Ahmed Swati
15/11/23
Zaheer Ahmed Swati
Superintendent Judicial
Addl. Advocate General,
KPK, Abbottabad.

S.#: 5055/288 AFFIDAVIT

Receipt # 288

Certified that the above was verified before me on this 15th day of Nov 2023

by *Syed Shah Hussain Shah*
Mr. *Syed Shah Hussain Shah*
Bodla who was identified by *Mr. Swati* who is personally known to me.

M. Swati
ADDITIONAL JUDGE
15/11/23

FILED TODAY

ADDL. JUDGE
P.H.C. ABBOTTABAD BENCH

M. Swati
15/11/23

M. Swati



R27

(NOTE FOR CHIEF SECRETARY)

Subject: - WRIT PETITION NO. 801-A/2023 MR. MUHAMMAD ILYAS VS GOVT. OF KHYBER PAKHTUNKHWA AND OTHERS.

The E&SE Department Khyber Pakhtunkhwa had issued posting/transfer order of teachers (BS-17) vide order dated 14.04.2023, wherein the petitioner namely Mr. Muhammad Ilyas IPE (BS-17) was transferred from GHSS Bodla Abbottabad to GHSS No.1 Abbottabad vide (P/A). However, the E&SE department vide order dated 09.05.2023 transferred the petitioner back to GHSS Bodla Abbottabad on departmental appeal of an aggrieved teacher namely Wali Ullah Khan IPE (BS-17) GHSS No.1 Abbottabad (F/B & F/C).

2. The petitioner namely Muhammad Ilyas IPE (BS-17) approached Peshawar High Court Abbottabad Bench with the prayer to suspend the posting/transfer order dated 09.05.2023 in r/o the petitioner. The Hon'ble High Court Abbottabad Bench vide order dated 14.06.2023 converted the petition into departmental appeal filed before the Worthy Chief Secretary, Khyber Pakhtunkhwa with the direction to decide the same within fifteen (15) days (F/D).

3. It is submitted that Mr. Muhammad Ilyas IPE (BS-17) is posted in GHSS Bodla Abbottabad since 07.05.2022, therefore, his normal tenure at the current station is incomplete. Moreover, the applicant is 52 years of age and domicile holder of Abbottabad and he is rightly placed at current station of posting.

4. As Posting/transfer is the mandate of Administrative department and the order in r/o the petitioner has been rightly issued due to the hardships and illness of Wali Ullah Khan IPE (BS-17) GHSS No.1 Abbottabad and due to incomplete tenure of the petitioner. Therefore, it is proposed that the Worthy Chief Secretary may dismiss the instant departmental appeal of the Mr. Muhammad Ilyas IPE (BS-17).

5. The Worthy Chief Secretary may like to approve the proposal contained in Para-04 of the Note, please.

SECRETARY BIAIRY

984

SECRETARY ESTABLISHMENT

No. 1016

CHIEF SECRETARY.

~~SECRETARY ESTABLISHMENT~~
 (MOTASIM DILLAI SHAH)
 SECRETARY E&SED

[Handwritten Signature]





Amr - B²² (05)

P-28

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone No. 091-9223533 Email: schoolmale@gmail.com

No.SO(SM) E&SED/9-1/Court Case/2023
Peshawar, Dated 19.10.2023

To

The Director,
Elementary & Secondary Education,
Khyber Pakhtunkhwa, Peshawar.

Subject: -

WRIT PETITION NO. 801-A/2023 MR. MUHAMMAD ILYAS V/S
GOVERNMENT OF KHYBER PAKHTUNKHWA AND OTHERS

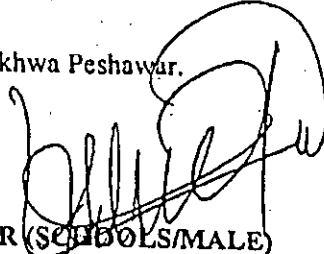
I am directed to refer to the subject cited above and to state that Mr. Muhammad Ilyas IPE (BS_17) was transferred to GHSS Botla Abbottabad vide order dated 09.05.2023. Aggrieved from the said posting order, the appellant approached Peshawar High Court Abbottabad Bench through Writ Petition No. 801-A/2023. The Hon'ble High Court vide Judgment dated 14.06.2023 converted the writ petition into departmental appeal filed before the Chief Secretary Khyber Pakhtunkhwa. The Hon'ble High Court has not granted any stay order in the instant case. However, through COC No. 99-A/2023 the Petitioner has stated that his salary has been stopped.

2. The above in view, the petitioner may be allowed to join his duty station i.e GHSS Botla Abbottabad in compliance of order dated 09.05.2023 and a detailed report regarding delay in Charge assumption/Charge relinquishment may be furnished to this department at the earliest, please.


(ABDUL HAQ)
SECTION OFFICER (SCHOOLS/MALE)

Copy of the above is forwarded to the

1. PS to Secretary, E&SE Department Khyber Pakhtunkhwa Peshawar.
2. DEO (M) Abbottabad.
3. Principal, GHSS Botla Abbottabad

o/c 
SECTION OFFICER (SCHOOLS/MALE)

Ans. C² (06)

OFFICE OF THE PRINCIPAL GHSS BODLA ABBOTTABAD

No 129-1

Dated 26/10/2023

P-29

To

The District Education Officer
Abbottabad

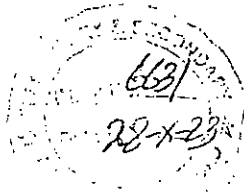
Subject: DELAY IN TAKING CHARGE & STOPPAGE OF SALARY IN R/O MR MUHAMMAD ILYAS IPE

Memo,

Reference to your letter No 8666/ESTB dated 26/10/2023. In response to your kind direction, I will allow the petitioner with honor to take a charge of his duty at GHSS Bodla Abbottabad but till now he is not willing to take a charge at above mentioned station.

I had made contact to Mr., Muhammad Ilyas (IPE) telephonically so many times & sent a voice message to him on 22 May 2023 (12:19 Pm) & text message on 19 Oct 2023(3:32 Pm) through whatsapp. As he was not working in this institution eventually on 26th May 2023 undersigned has stopped his pay.

The report is being forwarded in your honor for further necessary action please.



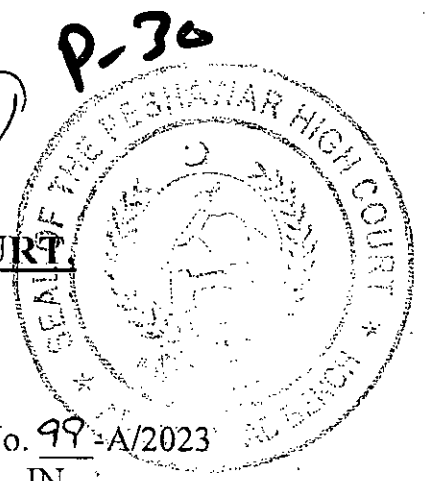
ADO (E/S)
Pdt. Tuke Furber
M/A

27-X-23

Chakras
Principal GHSS Bodla
Abbottabad
26/10/2023
Principal
Govt Higher Secondary School
Bodla Abbottabad

[Handwritten signature]

BEFORE THE PESHAWAR HIGH COURT
ABBOTTABAD BENCH



C.O.C No. 99-A/2023
IN
W.P No. 801-A/2023

Muhammad Ilyas son of Safdar Jang resident of Narah Tehsil Havelian District
Abbottabad.

PETITIONER

VERSUS

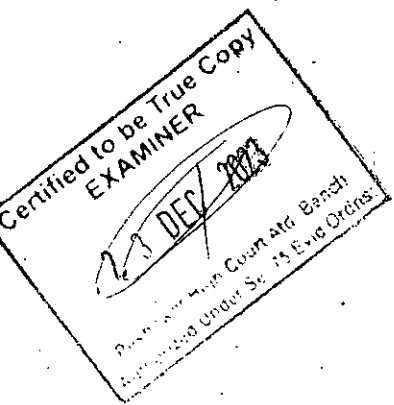
1. The Govt. of KPK through Secretary Elementary Secondary Education (E&SE) (Hafiz Mohtasim Billah) Block-A, 3rd floor, Building A, Civil Secretariat Peshawar.
2. Syed Shah Hussain Shah Principal GHSS Bodla Abbottabad.

...RESPONDENTS

WRIT PETITION

APPLICATION FOR INITIATION OF CONTEMPT
OF COURT PROCEEDINGS AGAINST THE
RESPONDENTS FOR NON-IMPLEMENTATION OF
ORDER OF THIS HONOURABLE COURT DATED
14/06/2023 IN TITLED WRIT PETITION.

Respectfully, Sheweth:-



1. That the above titled writ petition of the petitioner is decided by this Honourable Court on 14/06/2023. Copy of writ petitions is annexed as Annexure "A".
2. That, the Honourable High court on dated 14/06/2023 had referred the case to the respondents as "Departmental

FILED TODAY
ADDITIONAL REGISTRAR
PESHAWAR HIGH COURT
ABBOTTABAD BENCH
28/12/23



Appeal” but without taking into consideration the reference made by this Honourable Court, the respondent No. 2 written letter to the District Accounts Abbottabad for stoppage of the petitioner’s Salary and resultantly the petitioner has not been paid his Salary till then. Furthermore, the respondent No. 2 bluntly stated that he will not accept the orders of the High Court instead he will comply with the orders of Service Tribunal. This a clear mockery of the orders of the Honourable Court and sheer contempt on the part of respondents, which is not acceptable at any cost because stoppage of Salary of any person is against the norms of the constitution of Islamic Republic of Pakistan, 1973 and also against the fundamental rights of the petitioner. Copy of order dated 14/06/2023 is attached as annexure “B”.

3. That, the reference was made by this Honourable Court to the Chief Secretary KPK for his kind consideration within 15 days, but he did not pay any heed to that reference and the petitioner was left only to face the consequences and his pay was stopped illegally and unlawfully.
4. That the respondents / contemnors are not complying the directions contained in order dated 14/06/2023 of this Honourable Court.

Certified to be True Copy
 EXAMINER
 23 DEC 2023
 Peshwar High Court and Bench
 Abbottabad Bench

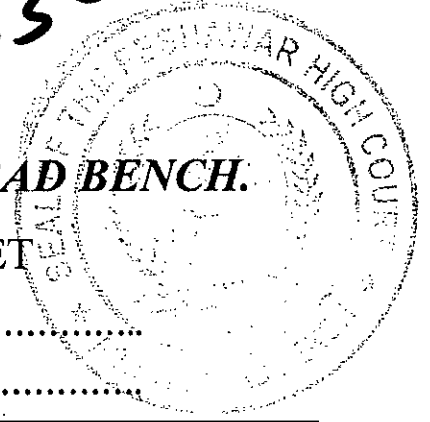
FILED TODAY
 ADDITIONAL REGISTRAR
 PESHAWAR HIGH COURT
 ABBOTTABAD BENCH
 ds/26/23

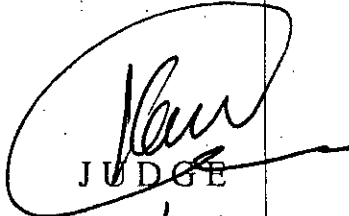
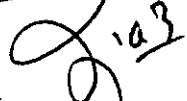
P-32

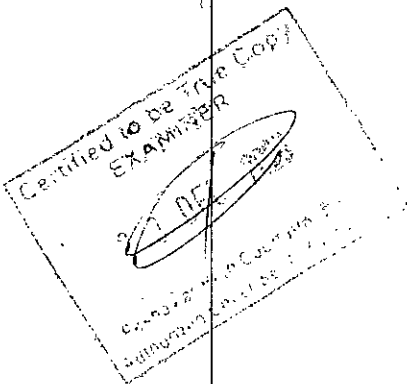
PESHAWAR HIGH COURT, ABBOTTABAD BENCH.**FORM OF ORDER SHEET**

Court of.....

Case No.....of.....



Date of Order of Proceedings	Order or other Proceedings with Signature of Judge (s)
1	2
21.12.2023.	<p><u>COC No. 99-A/2023.</u></p> <p>Present: Nemo for petitioner.</p> <p>Mr. Wajahat Hussain Shah, AAG for official respondents with Mr. Alam Zeb Assist: DLO, E&SE, Dept:</p> <p style="text-align: center;">***</p> <p><u>KAMRAN HAYAT MIANKHEL</u>, At the very outset, learned AAG stated that petitioner has taken over the charge of the post in question and his source form has been sent to the concerned District Accounts Office for the release of salary.</p> <p>2. In view of the submission of learned AAG alongwith representative of respondents, this COC has lost its efficacy, therefore, the same is hereby dismissed, however, the petitioner would be at liberty to file a fresh petition, if his grievance is not redressed.</p> <p style="text-align: right;">  JUDGE  JUDGE </p>




Annex-f

OFFICE OF THE DISTRICT HEALTH OFFICER ABBOTTABAD.

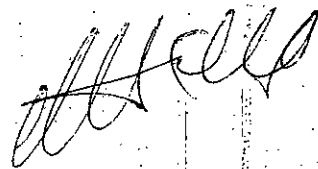
P-33

SERVICE CERTIFICATE

It is certified that Mrs. Saeeda Akhtar W/O Muhammad Ilyas is permanent Government Servant in Health Department and serving as PHC Technician (MP) BPS-14 at Basic Health Unit Kakul since 23.11.1992 to date.


District Health Officer
Abbottabad.

Dated Abbottabad. 21/03/2022



P-34

To

Dated: Pesh: the 04th July, 1993.

All Administrative Secretaries,
to Government of N.W.F.P.

SUBJECT:-
Sir,

POSTING OF HUSBAND AND WIFE AT ONE STATION.

I am directed to refer to the subject noted above and to say that instructions were issued by the former west Pakistan S&CA Department vide circular No. SORII(S&CAD) 2-127/61, dated: 5-2-1962 and No. SORI(S&CAD) 2-127(S&CAD) 2-127/61, dated: 16-7-63 (Copies enclosed) regarding posting of husband and wives working in the Government Departments and Autonomous/Semi-Autonomous Bodies, at one station, which are still in vogue and valid.

2. The NWFP Provincial Assembly, in its session dated: 28-12-1993, had also unanimously adopted a Resolution to the effect that the wives and husbands who are employed in different schemes should be posted in the same district so that their homes are not divided and there is no adverse effect on education and training of their children.

3. In view of the above, it is requested to please intimate the particulars of such husbands and wives who both are serving either in Government Departments or in the Autonomous/Semi-Autonomous Bodies and are presently posted at one end the same station or within the same district. Also, the details of such husbands and wives who are not posted at one place or within the same District may be indicated.

4. It is requested that the above information may kindly be supplied to this Department immediately as the same is required in connection with an Assembly Question.

Encls: As above.

Yours. Obediently,

Sd/-

(AHEAD KHAN)

SECTION OFFICER(R-I)

OFFICE OF THE DIRECTOR OF EDUCATION (COLLEGES), NWFP, PESHAWAR.

Encls: NO. 281/PA-167/Genl: Circular No. 11/CA-IV D.P. Pesh: 1993

Copy of the above is forwarded to the Principals of all Govt. Colleges (Male & Female) in NWFP with the request that the information asked for in the above letter may kindly be furnished to this office on top priority basis so that it may be communicated to the Provincial Government for further n/action.

2. Section Officer (General) Govt. of NWFP, Edu: Deptt., to his letter No. SOC/Edu./ 6-147/V-III/94, dated: 16-8-1993.

22th clerk to write

281/PA-167/Genl: Circular No. 11/CA-IV D.P. Pesh: 1993

Principal

BY: DIRECTOR OF EDUCATION (COLLEGES), NWFP, PESHAWAR

16/10/93

کورٹ فیس

وکالت نامہ

Before the Service Tribunal KP Peshawar بعدالت

Muhammad Ilyas عنوان: Gsuto 7 KPAS 3016 بنام

Applicant منجانب:

Service Appeal - نوعیت مقدمہ:

باعث تحریر آنکہ

مقدمہ مندرجہ میں اپنی طرف سے واسطے پیروی و جواب دہی کل کاروائی متعلقہ آل مقام

M. Aslam Tanwar vs. M. Ibrahim Khan Adv. Hc

کو وکیل مقرر کر کے اقرار کرتا ہوں کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا نیز وکیل

صاحب موصوف کو کرنے راضی نامہ و تقرر ثالث و فیصلہ برحلف و دینے اقبال دعویٰ اور بصورت دیگر ڈگری

کرانے اجراء وصولی چیک روپیہ و عرضی دعویٰ کی تصدیق اور اس پر دستخط کرنے کا اختیار ہوگا اور بصورت

ضرورت مقدمہ مذکور کی کل یا کسی جزوی کاروائی کے لئے کسی اور وکیل یا مختار صاحب قانونی کو اپنے ہمراہ اپنی

جائے تقرر کا اختیار بھی ہوگا اور صاحب مقرر شدہ کو بھی وہی اور ویسے ہی اختیارات ہوں گے اور اس کا

ساختہ پر داختمہ مجھ کو منظور و قبول ہوگا۔ دوران مقدمہ جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب ہوگا اس کے

مستحق وکیل صاحب ہوں گے۔ نیز بقایا رقم وصول کرنے کا بھی اختیار ہوگا۔ اگر کوئی پیشی مقام دورہ پر ہو یا

حد سے باہر ہو تو وکیل صاحب موصوف پابند ہوں گے کہ پیروی مقدمہ مذکورہ کریں اور اگر مختار مقرر کردہ میں

کوئی جز و بقایا ہو تو وکیل صاحب موصوف مقدمہ کی پیروی کے پابند نہ ہوں گے۔ نیز درخواست بمراد

استجارت نالش بصیغہ مفلسی کے دائرہ کرنے اور اس کی پیروی کا بھی صاحب موصوف کو اختیار ہوگا۔

لہذا وکالت نامہ تحریر کر دیا تاکہ سند لے سکیں۔

Accepted

Accepted

بمقام:

العبد العبد