


FORM OF ORDER SHEET

Court of _____

Appeal No. 544/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	16/04/2024	<p>The appeal of Mr. Bacha Khan presented today by Mr. Umar Farooq Mohmand Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____ Parcha Peshi given to the counsel for the appellant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

BEFORE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR

Service Appeal NO. 544 -P/2024

MR. BACHA KHAN

VS


THE GOVT: OF KP

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APPELLANT

THROUGH:


UMAR FAROOQ MOHMAND
ADVOCATE HIGH COURT

①

BEFORE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR.

SERVICE APPEAL NO. 544 -P/2024

Mr. Bacha Khan, SS English (BPS-17)
GHSS Ghalani, under transfer to GMHSS Ghazi Baig
District Mohmand

..... APPELLANT

V E R S U S

1. The Government of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. The Government of Khyber Pakhtunkhwa through Secretary Elementary & Secondary Education Department, Civil Secretariat, Peshawar.
3. Irfan Ullah S.S (BPS-17) GMHSS Ghazi Baig District Mohmand under transfer GHSS Ghalani

..... RESPONDENTS

SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT, 1974 AGAINST BOTH THE IMPUGNED ORDER DATED 11/12/2023, WHEREBY THE PRIVATE RESPONDENT WAS POSTED AGAINST THE POST OF APPELLANT AND AGAINST THE ORDER DATED 13/12/2023, WHEREBY THE APPELLANT HAS BEEN TRANSFERRED AND POSTED AGAINST THE POST OF PRIVATE RESPONDENT AND AGAINST THE INACTION OF THE RESPONDENT BY NOT DECIDING THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN STIPULATED PERIOD OF 90 DAYS.

PRAYER:-

That on acceptance of the instant Service Appeal, both the impugned orders dated 11/12/2023 & 13/12/2023 may kindly be set aside and the appellant may not be transfer from the post of SS English (BPS-17) GHSS

Ghalani. Any other remedy which this august Tribunal deems fit that may also be awarded in favour of the appellant.

R/SHEWETH:

ON FACTS:

Facts arising for the institution of instant service appeal are as under:-

- 1- That the appellant is the employee of respondent department and is serving as SS (BPS-17) since his appointment ill date, quite efficiently and upto the entire satisfaction of his superiors.
- 2- That it is important to mention here that the respondent No 2 vide impugned notification dated 11/12/2023 transferred the private respondent and posted him as SS (English) at GHSS Ghalani, despite the fact that the said post has not vacant and the appellant performing his duties against the said post. Copy of impugned order dated 11/12/2023 is attached as annexure.....**A**
- 3- That after issuing the ibid impugned order, whereby the private respondent has been posted at GHSS Ghalani Mohmand against vacant post, but when the department know about the fact that the appellant performing his duties in the said post, astonishingly and just to facilitate his blue-eyed person i.e. private respondent issued another impugned notification dated 13/12/2023, whereby the appellant has been transferred and posted at GMHSS Ghazi Baig District Mohmand. Copy of impugned notification dated 13/12/2023 is attached as annexure.....**B**
- 4- That it is important to mention here that the private respondent has been appointed and posted vide Notification dated 27/07/2023 at GMHSS Ghazi Baig Mohmand, but just to facilitate the private respondent, the respondent without fulfilling his normal tenure of posting, has been transferred against the post of appellant. Copy of notification dated 27/07/2023 is attached as annexure.....**C**

- 5- That appellant aggrieved from the impugned notifications being illegal and against the policy of the government and not in public interest, preferred the Departmental Appeal before the competent authority, but no reply has been received so far. Copy of departmental appeal is attached as annexure.....D
- 6- That Appellant feeling aggrieved and having no other efficacious remedy preferred the instant Service Appeal on the following grounds:-

GROUND:

- A- That both the impugned notifications dated 11/12/2023 & 13/12/2023 being contrary to law and rules, hence not tenable in the eye of law and needs interference of this Honorable Tribunal to be set aside.
- B- That Appellant has not been treated by the respondent department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That both the impugned notifications dated 11/12/2023 & 13/12/2023 are in utter violation of the Transfer and Posting Policy of the Government.
- D- That the treatment meted out to the appellant is highly discriminatory and in clear violation of the Fundamental Rights of the Appellant as enshrined in the Constitution of Pakistan 1973 and also violation of Articles 218 (3), 220 of the Constitution of Islamic Republic of Pakistan.
- E- That both the impugned notifications are also violative of the transfer/posting policy of the Government of Khyber Pakhtunkhwa as both the notifications not issued in public interest, rather issued just to facilitate the blue-eyed person i.e. private respondent.
- F- That both the impugned notifications dated 11/12/2023 & 13/12/2023 are also violative of Rule 12 of Appointment, Promotion & Transfer Rules, 1989.


G- That the respondent has also violated Clause-I, Clause-IV & Clause-XIII of the transfer posting of the Government by issuing both the impugned notification dated 11/12/2023 & 13/12/2023.

H- That the appellant seeks permission to advance other grounds and proofs at the time of arguments.

It is therefore, most humbly prayed that the appeal of the appellant may be accepted as prayed for.


APPELLANT

THROUGH:


UMAR FAROOQ MOHMAND


WALEED ADNAN


MEHMOOD JAN


KHANZAD GUL
ADVOCATES HIGH COURT

CERTIFICATE:

No such like appeal is pending or filed between the parties on the subject matter before this Honorable Tribunal.


Advocate

AFFIDAVIT

I, Mr. Bacha Khan, SS English (BPS-17) GHSS Ghalani, District Mohmand, do hereby solemnly affirm on oath that the contents of the above appeal are true and correct to the best of my knowledge and believe and nothing has been concealed from this Honorable Tribunal.


DEPONENT

5

BEFORE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR

CM NO. _____ -P/2024

In

Service Appeal NO. _____ -P/2024

MR. BACHA KHAN

VS

THE GOVT: OF KP

APPLICATION FOR SUSPENSION OF OPERATION OF BOTH
THE IMPUGNED NOTIFICATIONS DATED 11/12/2023 &
13/12/2023, WHEREBY THE APPELLANT HAS BEEN
TRANSFERRED AND POSTED AGAINST THE POST OF
PRIVATE RESPONDENT WITHOUT, TILL THE DISPOSAL OF
THE MAIN APPEAL.

R/SHEWETH:

- 1- That the above mentioned appeal along with this application has been filed the appellant before this august Tribunal in which no date has been fixed so far.
- 2- That appellant filed the above mentioned appeal against both the impugned notifications dated 11/12/2023 & 13/12/2023, whereby the appellant has been transferred and posted against the post of private respondent.
- 3- That all the three ingredients necessary for the stay is in favor of the appellant.
- 4- That both the impugned notifications dated 11/12/2023 & 13/12/2023 had been issued by the respondents in utter disregard of law and prevailing Rules.

It is therefore, most humbly prayed that on acceptance of this application the operation of both the impugned orders dated 11/12/2023 & 13/12/2023 may very kindly be suspended till the disposal of the above mentioned service appeal.


APPELLANT

THROUGH:


UMAR FAROOQ MOHMAND
ADVOCATE HIGH COURT

6

BEFORE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL,
PESHAWAR

CM NO. _____ -P/2024

In

Service Appeal NO. _____ -P/2024

MR. BACHA KHAN

VS

THE GOVT: OF KP

AFFIDAVIT

I, Mr. Bacha Khan, SS English (BPS-17) GHSS Ghalani, District Mohmand, do hereby solemnly affirm on oath that the contents of the accompanied application are true and correct to the best of my knowledge and believe and nothing has been concealed from this Honorable Tribunal.


DEPONENT



16 APR 2024



"A" (7)

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

Peshawar Dated 11.12.2023

NOTIFICATION

NO.SO(S/M) E&SED/5-17/2023/PT: Mr. Irfan Ullah SS English (BS-17) is hereby transferred from GMHSS Ghazi Beg Mohmand and posted at GHSS Ghalani Mohmand against the vacant post SS English (BS-17) with immediate effect, in the best public interest.

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 Secretary E&SE Department.
8. PA to Additional Secretary (Estab) E&SE Department.
9. Officer Concerned.
10. Office order file.

(ABDUL HAQ)
SECTION OFFICER (SCHOOLS/MALE)

12/12/23
ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone No. 591-9111111 Email: eschoolmal@qmail.com

MB
8

Peshawar Dated 13.12.2023

NOTIFICATION

NO.SO(S/M) E&SED/5-17/2023/PT; Mr. Bacha Khan SS English (DS-17) is hereby transferred from GHSS Ghulam Molmand and posted at GMHSS Ghazi Beg Mohmand, against the vacant post of SS English (DS-17), with immediate effect, in the best public interest.

SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA
E&SE DEPARTMENT

Ends: 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 Secretary E&SE Department.
8. PA to Additional Secretary (Estab) E&SE Department.
9. Officer Concerned.
10. Office order file.

(ABDUL HAQ)
SECTION OFFICER (SCHOOLS/MALE)

TESTED



"C"
9

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

Peshawar, Dated: 27st July 2023

NOTIFICATION

NO.SO(SM)E&SED/2-17/Recruitment of SS English (BS-17): Consequent upon their recommendation from Khyber Pakhtunkhwa Public Service Commission and subsequent approval of the competent authority and their appointment order vide this Department Notification No. SO(SM) E&SED/2-17/2023/Recruitment of SS (English) BS-17 dated 12 July 2023, posting/adjustment in respect of the following Subject Specialists English (BS-17) are hereby ordered in the schools mentioned against each, with immediate effect, in the best public interest.

S. No	Name with Father's Name	Designation	Station	Remarks
1.	Abdullah khan Swati S/O Muhammad Saqqa	SS English (BS-17)	GHSS Peshora Battagram	AVP
2.	Naveed khan s/o Ajab Khan	SS English (BS-17)	GHSS Abdul Khel D.I Khan	AVP
3.	Zeeshan Ahmad S/O Nausherawan	SS English (BS-17)	GHSS Wazir Bagh Peshawar	AVP
4.	Ibad Ullah s/o Nasrullah khan	SS English (BS-17)	GHSS Shalkandi Dir Lower	AVP
5.	Mushahid Nauman S/O Inam Din	SS English (BS-17)	GHSS Gurguri Karak	AVP
6.	Naqeeb Hussain S/o Kamal Hussain	SS English (BS-17)	GHSS Lodhi Khel Karak	AVP
7.	Fawad Amin S/o Khair Ul Amin	SS English (BS-17)	GHSS Dobian Swabi	AVP
8.	Mohsin Zubair S/o Zubair Anwar	SS English (BS-17)	GHSS Shadi Khel Kohat	AVP
9.	Adil Amir Khan S/o Amir Khan	SS English (BS-17)	GHSS Kech D.I Khan	AVP
10.	Rizwan Awan S/o Wali Ur Rehman	SS English (BS-17)	GHSS Shergarh Mansehra	AVP
11.	Muhammad Zahir S/o Ghani Gul	SS English (BS-17)	GHSS Wazir Bagh Peshawar.	AVP
12.	Muhammad Nadeem Khan S/o Sabz Ali	SS English (BS-17)	GHSS Sharqi Hoti Mardan	AVP

[Handwritten Signature]
REGISTERED



(10)

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

14.	Mehboob Elahi S/o Rehmat Azeem Khan	SS English (BS-17)	GHSS Harchin Chitral Upper	AVP
15.	Muhammad Iftikhar Khan S/o Zafeer Ullah Khan	SS English (BS-17)	GHSS Chorlaki Kohat	AVP
16.	Abdullah S/o Rasool Khan	SS English (BS-17)	GHSS Sudal Kohat	AVP
17.	Zeeshan Shahjehan S/o Shahjehan	SS English (BS-17)	GHSS Jabbori Mansehra	AVP
18.	Muhammad Ibrar Khan S/o Jan Nisar	SS English (BS-17)	GHSS Dosehra Charsadda	AVP
19.	Imad Akhtar S/o Akhtar Ali	SS English (BS-17)	GHSS Baghicha Dheri Mardan	AVP
20.	Yasir Ahmad S/o Shafiq Ahmad Khan	SS English (BS-17)	GHSS Urmar Payan Peshawar	AVP
21.	Naeem Ullah S/o Habib Ullah	SS English (BS-17)	GHSS Bumburate Chitral Lower	AVP
22.	Majid Ullah S/o Sher Muhammad	SS English (BS-17)	GHSS Lachi Kohat	AVP
23.	Muhammad Fayyaz S/o Muhammad Roshan.	SS English (BS-17)	GHSS Jared Mansehra	AVP
24.	Maaz Ali S/o Muhammad Ali Khan	SS English (BS-17)	GHSS Kalu Khan Swabi	AVP
25.	Sajjad Khan S/o Nashar Gul	SS English (BS-17)	GHSS Dagi Banda Nowshera	AVP
26.	Muhammad Owais S/o Gul Raheem	SS English (BS-17)	GHSS Battagram Charsadda	AVP
27.	Zaheer Ud Din Babar S/o Shajar	SS English (BS-17)	GHSS Paimal Sharif Battagram	AVP
28.	Muhammad Anwar Shah S/o Muhammad Afzal Shah	SS English (BS-17)	DPD Peshawar	AVP
29.	Saeed Ullah S/o Amir Khatem Khan	SS English (BS-17)	GHSS Kherukhel Pacca Lakki Marwat	AVP
30.	Syed Murtaza Ali Shah S/o Syed Muzammil Shah	SS English (BS-17)	GHSS Kurvi Nowshera	AVP

REGISTERED



(11)

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone No. 081-9223533 Email: sschoolmale@gmail.com

33.	Huzaiifa Siddique S/o Umer Siddique	SS English (BS-17)	GHSS Garhi Ghulam Shah Peshawar.	AVP
34.	Faran Ali S/o Mushtaq Ahmad	SS English (BS-17)	GHSS Doga Manshra	AVP
35.	Irfan Ullah S/o Rahimdad	SS English (BS-17)	GMHSS, Ghazi Beg Mohmand,	AVP
36.	Muhammad Aaqib S/o Muhammad Ijaz	SS English (BS-17)	GHSS Manki Swabi	AVP
37.	Faiz Ullah S/o Nasir Khan	SS English (BS-17)	GHSS Haryana Bala Peshawar	AVP
38.	Tariq Ullah S/o Muhammad Iqbal	SS English (BS-17)	GHSS Zaimdara Dir Lower	AVP
39.	Waqar Younas S/o younas khan	SS English (BS-17)	GHSS Shakardara Kohat	AVP
40.	Mr. Sajid Iqbal S/o Umar Zada	SS English (BS-17)	GHSS Gandigar Dir Upper	AVP

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 Officers (Male) concerned.
5. District Accounts Officers concerned.
6. PS to Advisor to Chief Minister for E&SE Department.
7. PS to Secretary E&SE Department.
8. Principal Concerned.
9. Officers concerned.
10. Office order file.

RECEIVED

27/07/23

IRFAN
158c

"D"
12

D. NO - 5927-P-WB

21-12-23

To,

The Worthy Chief Secretary

Govt: of KPK, Peshawar.

Subject:

DEPARTMENTAL APPEAL AGAINST THE ORDERS DATED 11/12/2023, WHEREBY MR. IRFAN ULLAH SS (BPS-17) WAS POSTED AGAINST THE POST OF APPELLANT AND DATED 13/12/2023 WHEREBY THE APPELLANT HAS BEEN TRANSFERRED AND POSTED AGAINST THE POST OF IRFAN ULLAH SS (BPS-17).

Respected Sir,

- 1- That the appellant is the employee of your good-self department and is serving as SS (BPS-17) since his appointment till date, quite efficiently and upto the entire satisfaction of his superiors.
- 2- That while performing his duties astonishingly vide impugned order dated 11/12/2023 Mr. Irfan Ullah SS (BPS-17) has been transferred and posted as SS English (BPS-17) against the vacant post, but infact the appellant already performing his duties against the said post at GHSS Ghalani Mohmand, just to facilitate the blue-eyed person namely Irfan Ullah SS English (BPS-17).
- 3- That after issuing the impugned order dated 11/12/2023, whereby Mr. Ifan Ullah SS English (BPS-17) has been posted at GHSS Ghalani Mohmand against vacant post, but when the department know about the fact that the appellant performing his duties in the said post, astonishingly and just to facilitate his blue-eyed person namely Mr. Irfan Ullah SS English (BPS-17), issued another impugned order dated 13/12/2023, whereby the appellant has been transferred and posted at GMHSS Ghazi Baig District Mohmand. Copies of the impugned notifications dated 11/12/2023 & 13/12/2023 are attached.
- 4- That appellant aggrieved from the impugned orders being illegal and against the policy of the government and not in public interest, preferred the instant Departmental Appeal before your honor inter alia on the following grounds:

Grounds:

- A) That both the impugned order dated 11/12/2023 & 13/12/2023 being contrary to law and rules and in utter violation of the law on the subject hence not tenable in the eye of Law.

REGISTERED

- B) That appellant have not been treated by the department concerned in accordance with law and rules on the subject noted above and as such action of the respondent department is violated Article 4 and 25 of the constitution of Islamic Republic of Pakistan 1973.
- C) That the impugned transfer orders are also violative of the transfer/posting policy of the Government of Khyber Pakhtunkhwa as the appellant have been transferred against the law on the subject.
- D) That the treatment meted out to the appellant is a clear violation of the Fundamental Rights of the appellant as enshrined in the Constitution of Pakistan 1973.
- E) That concerned authority has violated Clause-I, Clause-IV and Clause-XIII of the transfer posting policy of the government have been violated by the respondents vide the impugned notification.
- F) That both the impugned orders dated 11/12/2023 & 13/12/2023 have not been issued in the public interest.

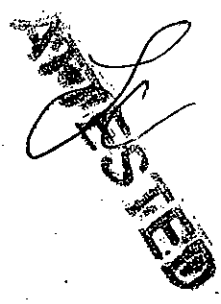
It is, therefore, most humbly requested that on acceptance of this Departmental Appeal, both the impugned orders dated 11/12/2023 & 13/12/2023 may very kindly be set aside and the appellant be retained on the station from where he was transferred.

Dated: 21/12/2023

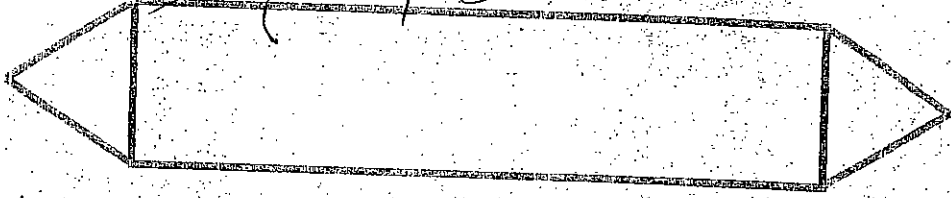
Yours Obediently



Mr. Bacha Khan
 SS English (BPS-17)
 GHSS Ghalani
 Mohmand



بعدالت آرڈر کا رجوع



بھافان

۲۰۲۱ء 2 منجانب

بنام لورٹمنٹ

بھافان

مورخہ

مقدمہ

دعویٰ

جرم

بابت تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب وہی وکل کاروائی متعلقہ
 کیلئے محکمہ حقوق صحت و دلیر عبدال + محمودان اطراف اصل
 آن مقام اور

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 ق تقرر ثالث و فیصلہ پر حلف دینے جواب وہی اور اقبال دعویٰ اور
 بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
 و رائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی
 اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا محتاج ہوگا۔ از بصورت ضرورت
 مقدمہ مذکور کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے
 تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکور با اختیارات حاصل ہوں گے
 اور اس کا ساختہ پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ ہوں گے
 سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہوتو وکیل صاحب پابند ہوں گے۔
 کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سند رہے۔

Accepted

2024ء

ماہ اگست

15

الم قوم

Bacha Khan