

**BEFORE THE KHYBER PUKHTUNKHAWA SERVICE  
TRIBUNAL PESHAWAR.**

Service Appeal No. 167/2024

Mr. Fida khan..... (Appellant)

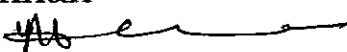
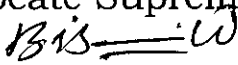
**VERSUS**

Chief Secretary and others ..... (Respondents)

**I N D E X**

S.No	Description of Documents	Annex	Pages
1.	Rejoinder	*	1-4
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6.	Copy of statement of teachers	D	11
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Through  
Dated: 15/04/2024

Appellant  
Mr. Fida khan  
  
Muhammad Ilyas Orazai  
Advocate Supreme Court  
&   
Bismillah Jan Wazir  
Advocate of High Court  
Peshawar.  
Cell No. 03335105928

19-04-2024  
Peshawar

**BEFORE THE KHYBER PUKHTUNKHAWA SERVICE  
TRIBUNAL PESHAWAR.**

Service Appeal No. 167/2024

Mr. Fida Khan son of Eid Muhammad R/O Tehsil Shewa,  
District North Waziristan, Ex-SDEO-Male Razmak-

.. (Appellant)

**VERSUS**

1. Chief Secretary, Government of Khyber Pukhtun Khawa Civil Secretariat, Peshawar.
2. Secretary, Elementary and Secondary Education Department Black-A, opposite MPAs Hostel, Civil Secretariat.
3. Director, Elementary and Secondary Department, near GHSS No. I.G.T. Road Peshawar.
4. District Education officer (Male) North Waziristan.
5. Habib ullah Jan, SDEO(Male), Razmak

..... (Respondents)

**REJOINDER ON BEHALF OF APPELLANT**

**Respectfully Sheweth;**

**Preliminary objections;**

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 12197

Dated 15.04.2024

1. Preliminary objection No.1 is denied as laid, as the impugned premature transfer order issued by the respondent No. 2, is against the law and rules, based on mala fide intention, has been made for the extraneous consideration to accommodate some blue-eyed chip namely Mr. Habid ullah Jan from teaching cadre, for their ulterior motives which is unlawful and illegal on the part of the respondents thus the instant case falls within the jurisdictional domain of the Service Tribunal.
2. Denied as laid, the respondent has made gross infringement of the law and rules of posting and transfer, hence the Impugned order of dated 5-10-2023 is not only contrary to law rather against the fundamental right of the appellant by issuing premature transfer notice for accommodating some blue-eyed chip from the same teaching Cadre for their ulterior motives without legal reason.

3. Para 3 to 8 are vehemently denied. The Honorable Supreme Court has categorically stated in the judgment 2018 SCMR 1411, that (when the ordinary tenure for posting has been specified in the law or rule made, there under such tenure must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable. Thus the impugned order of the respondent is illegal and does not stand to reason. Moreover It is pertinent to note that the main objective of the respondent by issuing this illegal premature notification was not nothing else, but to make the appellant a scapegoat, in order to accommodate some blue-eyed chip, namely Habib ullah Jan.
4. That Para 9 denied as is false and incorrect as the allegations through the notorious group, of the one of the same village, were falsely leveled against the appellant whereupon a formal fact finding enquiry committee was constituted. The fact finding committee issued questionnaire, was replied, in the light of the that reply the respondent was found innocent and resultantly was exonerated from all false allegations leveled against the respondent. **(Copy of the questionnaire and its reply and written report submitted by the fact finding committee are attached).**
5. Para 10 is incorrect and denied. The impugned notification is premature, illegal thus the instant case falls within the jurisdictional domain of Service Tribunal.
6. Para 11 is incorrect and denied as the Honorable Supreme Court has held in the 2018 SCMR 1411, that rule designate posts as "Tenure Post" (rule 22 read with Schedule IV of the rules) and prescribed a period of three years for an incumbent to serve on such posts. Such prescribed tenure may therefore be categorized as the ideal duration for which a civil servant should serve at a particular post. In the present case, the appellant was posted, and in a little over eight months when he was again modify to report to GHS Mandy khel North Waziristan. Any civil posted to a particular post requires some time to familiarize himself with the working of the office and requirements of the post, thereafter, he will be best placed to acquit himself of the responsibilities of the post, however , eight months posting, as in the case of the appellant, would not serve the interests of the people.

7. Para 12 is incorrect hence vehemently denied. As the respondent has prematurely notified and illegally posted the Habid ullah Jan who is admittedly from teaching cadre for an ulterior motive which crystal clear illegal and corrupt practice on the part of respondent. It pertinent to note that appellant was issued transferred notification just because the appellant stubbornly refused to sign the appointed shown through a fake High Court Bannu bench. It is pertinent to mention for the kind perusal of this August Tribunal that a serious notice has been given to the respondents for the fake High Court order from the counsel to whom the fake High Court order has been attributed. (Copy of the statement counsel is annexed).
8. Para 13 is incorrect and denied. Fact speaks louder as respondent contradict his own action because the appellant has been replaced by a person who himself is from teaching cadre which iota perusal of the impugned notification is enough to reveal the truth on the part of appellant.
9. Para 14 is incorrect. Posting and transfer no doubt could not be challenged unless it was against the and rules or mala fide, if found mala fide or made for the extraneous consideration to accommodate some blue-eyed chip, then the matter would fall within the jurisdictional domain of the Service Tribunal. The instant case does fall within the jurisdictional domain of this August Service Tribunal.

**Facts;**

1. This Paras 1 to 3 are pertain to record need no reply.
2. Para 4 is vehemently denied as its detail reply is duly mentioned in Para 4 of this Rejoinder however, it could be proudly mentioned here that in the entire service there is not iota dot on the record of the appellant rather has rendered a tremendous contributions to this great department throughout his service career especially when the appellant shouldered the same responsibility. It is briefly stated that the root cause of all these false allegation was that the dears and nears of this group seriously suffered by the stubborn refusal of the appellant to sign the fake and bogus corrupt appointment of their relatives and thus it provoked the group on leveling false accusation against the appellant

which the formal fact finding committee found all the allegation, baseless and frivolous and issued exoneration report in favor of the appellant.(report attached)

3. Para 5 incorrect hence denied, there is not an iota complaint throughout the entire service of the appellant and has served the department with ought most zeal and honesty. The respondent mala fide intention is obvious as a teaching cadre blue-eyed was notified instead which is totally against the public interest.
4. Para 6 incorrect as it has been replied above Para 2.
5. Para 7 is incorrect hence denied. The appellant rendered a tremendous contributions to this great department as functionalized all the dormant and inactive schools which reveals itself a major contributions on the part of appellant.(statement of teachers attached)

**Reply on grounds;**

All the grounds as setup in the reply are incorrect while the grounds in the appeal/ rejoinder are correct. Keeping in view what has been stated above in this rejoinder may kindly be treated and considered as part and parcel of the main appeal.

Through  
Dated: 15/04/2024

*Fida Khan*  
Appellant  
Mr. Fida Khan  
*Muhammad Ilyas Orazai*  
Muhammad Ilyas Orazai  
Advocate Supreme Court  
& *Bismillah Jan Wazir*  
Bismillah Jan Wazir  
Advocate of High Court  
Peshawar.

**BEFORE THE KHYBER PUKHTUNKHAWA SERVICE  
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Mr. Fida Khan..... (Appellant)

**VERSUS**


Chief Secretary and others ..... (Respondents)

**AFFIDAVIT**

I, **Mr. Fida Khan Son of Eid Muhammad r/o Tehsil shewa District North Waziristan. EX-SDEO-Male Razmak**, do hereby solemnly affirm and declare that the contents of the Rejoinder are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal

*Handwritten signature and date: 15/11/2024*

**DEPONENT**  
Mr. Fida Khan  
CNIC: 21508-7237912-1



The stamp is circular with the text "ATTESTED" at the top, "OATH COMMISSIONER" in the center, and "High Court Peshawar" at the bottom. A signature is written over the stamp.

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) BANNU

Phone No: 0928-660005 Fax No: 0928-660346

Email Id: bannuedo@yahoo.com



60A  
Fno

To.

Mr. Fida Khan Ex-SDEO (M) Razmak Head Master  
GHS Gul Muhammad Manday Khel North Waziristan.

Subject: -

REPORT OF DEO(M) NORTH WAZIRISTAN /ENQUIRY PROCEEDING

Reference Secretary E&SED Khyber Pakhtunkhwa Notification issued under Endst: No.SO (Inq) E&SED/1-17/2023 dated: 30-10-2023 and Notification of even No. dated: 16-11-2023 on the subject cited above.

In this regard it is to inform you that the competent authority has nominated the undersigned as enquiry officer for submission of fact finding Inquiry report in the subject matter.

You are therefore requested that answers of the following questions may kindly be provided to dig out the facts and to submit facts finding report to the competent authority well in time please.

- 1- Your good name & present designation / place of posting?
- 2- Time period served by you as SDEO (M) Razmak DNW.
- 3- Reason of misunderstanding with DEO (M) NW.
- 4- You have transferred from SDEO(M) Razmak to the post of HM GHS Manday khel DNW vide Secretary to Govt: of KPK E&SED Notification Dated: 05-10-2023. have you make compliance of the orders.
- 5- If answer of the question No.4 is positive. please submit charge report and pay slip for the month of October 2023.
- 6- As per report of DEO (M) NW. you have lack of interest in school duty, your reply.
- 7- As per his report you defaming the DEO Office through Social media. is its correct.
- 8- As per his report. he visited your school on 27-10-2023 and found you absent from the date of . your proof of duty & reply in this regard.
- 9- The DEO (M) NW provided 02 complaints of the teachers/ Malgeri Ostazan Razmak against you. your response in this regard.
- 10- Your personal statement /comments in the subject substance if any.

ENQUIRY OFFICER.

District Edu: Officer.

(M) Bannu.

Dated: 29-11-2023.

ATTACHED

To

The Enquiry Officer,  
DEO (M) Bannu.

(17) UB

A No. 10

Subject:- Report of DEO (M) North Waziristan / Enquiry Proceeding

Respected Sir.

Reference to your notice 19/11/2023, its para wise reply is submitted as under.

- 1- Fida Khan Wazir Head Master / GHS Gul Mohd Mandeylehel Tehsil Dossali NWD.
- 2- I have performed my duty as SDEO 06 months 05 days. (copy is attached)
- 3- Para Three of the notice is stubbornly denied as there was not misunderstanding between me and the concerned individual rather it was my refusal to sign the dubious Three (03) persons to be appointed, that were crystal clear on my part as bogus. (copy is attached)  
That my stubborn refusal to sign the unlawful appointment of these three persons are being produce for your kind personal dually attached with this reply, that led to the concerned entity's anger which the respondent did not take serious rather prepared ready to face his challenge.
- 4- yes I have made compliance of the order vide Secretary to Govt of K P K E d SED notification dated 05-10-2023
- 5- Copy of charge / Arrival Report along with pay slip for the month of October 2023 is hereby submitted

Page - 2 -







6- That is for as my lack of interest- is concerned it shows my record Throughout my service that the respondent has never given an iota chance of complaint- in this regard and has made his arrival and is being attached to this reply. (2) (8)

7- No, it is not correct. I have never ever defamed my DEO office in any way, be it the social media or any other platform. In this regard the DEO already <sup>has</sup> called explanation and I have <sup>been</sup> submitted the ~~ex~~ reply of explanation on time. (copy is attached)

8- On 27th Oct 2023, it evident from the attendance register of teachers that DEO (M) NWD has paid no visit to GHS Gul Mahomed Mandey Khel. For clarification copy is attached of the Teachers attendance register.

9- Malgeri Ustazan is a just fake organization that it does not exist at all. This so called organization is being used by few infamous opportunist for their ulterior motives such as unlawful appointments in the concerned department. They belong to one and the same locality and were determined to make Habibullah Jan S. DEO Through DEO.

These three individuals were used against me. Their relatives have been unlawfully appointed. These three individuals are Barakat Shah, Abdul Aziz, and Habibullah Jan. Moreover Habibullah Jan himself belong to the same locality and the bogus appointment through fake court order are also his relatives.

The individuals mentioned in the alleged complaint against me majority of them are ready to give affidavit about wrongfully used for his ulterior motives in the complaint against me.

10- This individual uses different tactics to blackmail and B.

Have tried to pressurised the respondent moreover taking undue advantage to achieve his devious motives through this undue pressure and he is accustomed to accumulate money by devious means.

This entity is devoid moral values through rogue having ~~not~~ no touch of humanity at all. He is scandalous to the backbone moreover a confirmed hypocrite as well and the root cause all filthy eruption of this great department.

This individual use to take immoral tactics to gratified sinner goal through his service.

This the main reasons respondent was transferred by devious means which was considered hindered achieving his filthy motive.

This individual is also involved in heinous crimes according to FIR lodged against him in the concerned police station.



~~RESTRICTED~~

Annexure

10



**OFFICE OF THE DISTRICT EDUCATION OFFICER R&SE (MALE) BANNU**

PH No. 928-660005, 660346, Fax 928-660005, E-mail: emisbannu@yaho.com

No. 16067 /Enquiry NW Dated: 11-12 /2023.

To:

The Section Officer (Inquiries)  
Elem: & Secy: Education Khyber Pakhtunkhwa.

SUBJECT: **FACT-FINDING INQUIRY**

Memo:

Reference Your Notification No.SO (Inq)E&SED/1-17/2023/Mr. Fida Khan/HM/NW dated; 30-10-2023, and letter NO. Even dated; 16-11-2023, whereas the undersigned was appointed as enquiry Officer in the subject matter, therefore necessary enquiry report is submitted as under please.

History of the case:-

The District Education Officer (M) North Waziristan submitted posting proposal of Mr. Fida Khan SDEO (M) Razmak DNW (B-17 TC) to the Secretary E&SED Khyber Pakhtunkhwa, vide his letter No.458-60/DEO/NWTD Dated; 15-09-2023. In response to the above the Secretary E&SED Khyber Pakhtunkhwa issued his transfer/posting and Mr. Fida was adjusted as Head Master GHS Mandey Khel NW and Mr. Habibullah Jan HM GHS Mandey Khel NW (B-17 TC) was adjusted in his place as SDEO vide Section Officer (MC) Notification Issued under No.SO(MC) E&SED/4-16/2023/transfer SDEOs dated; 5-10-2023. On 20-10-2023 the DEO (M) NW again reported the said Fida Khan HM to the Secretary E&SED Khyber Pakhtunkhwa due to lack of interest in school duties and to defaming the DEO(M) Office through social media vide his letter No. 1884 dated; 28-10-2023. On the same date through separate letter No.1896, the DEO(M) NW requested the competent authority for conduction of impartial inquiry against Fida Khan HM NW, This letter was also addressed to the Chief Secretary KPK Peshawar with the same No & Date on the same day. The worthy Secretary E&SED KPK Nominated the undersigned as enquiry officer to probe/ investigate the matter and report.

Method adopted/Investigation

Mr. Fida Khan HM GHS Mandey Khel NW was called in my personal office on 30-11-2023. Questionnaire was served to him and he has submitted his detail reply to undersigned on 6-12-2023, he was also investigated on the charges leveled against him by the DEO (M) NW.

Findings/Conclusion

During investigation and from the perusal of available record as well as his answers to questions, I the undersigned being inquiry Officer come to the conclusion that Mr. Fida Khan EX-SDEO (M) Razmak was transferred to GHS Mandey Khel NW on the recommendation/proposal of DEO(M) NW vide No. & date cited above. Mr. Fida Khan Make compliance of the orders and submitted arrival report dated; 6-10-2023 as well as charge report to all concerned vide No. 154-62 dated; 13-10-2023. He provided Pay slip for the month of October 2023, which was drawn at GHS Mandey Khel NW.

The basic reasons of the dispute in between both the officers was that, the DEO(M) NW was issued appointment order of three Court cases including Alyas Anwer, Nazinullah Shah & Akram ud Din vide order No.38191-96 dated; 01-04-2023. Mr. Fida Khan Ex-SDEO(M) Razmak make objection on the same that the Write Petition as mentioned in the appointment order and DEO(M) NW signatures on the appointment order is suspicious, therefore he is unable to sign the pay bills being DDO, till the clearance of both issues, therefore unemotional war was started in between both the officers and the same was converted into emotional war in so many months and resultantly Mr. Fida Khan Ex-SDEO (M) Razmak was transferred to GHS Madey Khel NW as Head Master.

Recommendations:-

- 1- In the above circumstances, I reached to the conclusion that Mr Fida Khan make compliance of the transfer/posting order with in due time of course.
- 2- No any serious allegation was proved against Fida Khan Ex-SDEO(M) Razmak, presently working as HM GHS Madey Khel NW, therefore he may be exonerated from the charges.
- 3- Necessary report is being submitted for further necessary action please.

ATTED

DISTRICT EDUCATION OFFICER  
(MALE) BANNU

11/12/2023

Written  
amount of  
disbursement

ڈیڑھ لاکھ روپے

بیان ملگری استاذان اور دیگر اساتذہ کرام بابت فداخان وزیر  
ہم مندرجہ ذیل اساتذہ کرام بیان کر کے تاکہ دیتے ہیں کہ سابقہ SDEO  
وزنک سب ڈویژن فداخان وزیر پیر لگا گئے تھے مگر شدہ الزامات  
من گھڑت اور بے بنیاد ہیں۔ ان سے بہارا کوئی تعلق نہیں۔  
یہ کہ سابقہ SDEO ایک فرض شناس اور دیانت دار آفیسر ہیں تھے  
اور رہیں گے۔

یہ کہ جب فداخان وزیر نے بحیثیت SDEO وزنک چارج سنبھالا تو  
انہوں نے غیر جانبر اساتذہ کرام کے خلاف سخت ایکشن لیکر لئی  
غیر فعال سکولوں کو فعال کیا۔

Sig.

Contact No

NIC

نمبر شمارہ نام -

Abd

0303-6447064

21502-9686589-9

میران خان

Abd

0322-9821578

21502-~~9686~~  
3981381-7

بلقیاز خان

Abd

0322-1952654

21502-6711257-3

محمد الیسین

Abd

0336-5987429

21502-6062109-5

لور جان

ABD

