FORM OF ORDER SHEET

Court of___

Appeal No.

760/2024

Order or other proceedings with signature of judge . S.No. Date of order proceedings 2 3 1 07/06/2024 1-The appeal of Mr. Raj Wali presented today by Mr. Fazal Shah Mohmand Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 11.06.2024. Parcha Peshi given to counsel for the appellant . By the order of Chairman. RE

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

PESHAWAR 60_{/2024}

Service Appeal No_

Raj WaliAppellant.

VERSUS

Govt. & Others

il.

S.No	Description of Documents	Annexure	Pages
1.	Service appeal with affidavit		1-3
2.	Application for suspension with affidavit		4-5
3.	Copy of Appointment Order	A	6
4.	Copy of Office Order dated 20-11-2023 & Order dated 23-11-2023	B&C	7-8
5.	Copy of Order dated 28.03.2024	D	9
6.	Copy of departmental Appeal & order dated 26-04-2024	E&F	10-1
7.	Copy of Notification dated 22-03-2024	G	12
8.	Copy of Notification	Н	12
9.	Wakalat Nama		15

INDEX

Dated-:06.06.2024

ر*ا ول* Appellant

.....Respondents.

Through e Fazal Shah Mohmand Advocate Supreme Court Of Pakistan

OFFICE:- Cantonment Plaza Flat 3/B Khyber Bazar Peshawar

Cell# 0301 8804841

BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

<u>PESHAWAR</u>

Service Appeal No 760 /2024

- 1. District Education Officer (MALE) Charsadda.

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE ORDER DATED 26/04/2024 WHEREBY DEPARTMENTAL APPEAL OF THE APPELLANT FILED AGAINST THE ORDER DATED 28-03-2024 HAS BEEN REGRETTED.

PRAYER:-

£.

On acceptance of this appeal the impugned order dated 26-04-2024 of respondent No 1 and Order dated 28 -03-2024 may kindly be set aside and the appellant may kindly be ordered to be posted as sweeper at GHS Wardaga charsadda.

Respectfully Submitted:-`

- 1. That the appellant was initially appointed as sweeper (BPS-1) at GHS Wardaga in the year 2013 and since appointment the appellant performed his duties with honesty and full devotion and to the entire satisfaction of his high ups.(Copy of Appointment Order is enclosed as Annexure A).
- That astonishingly the appellant was transferred from GHS wardaga to GHSS Dosehra Charsadda against the vacant post of sweeper on administrative ground vide order dated 20-11-2023, which was later on withdrawn by the competent authority vide order dated 23-11-2023... (Copy of Office Order dated 20-11-2023 & Order dated 23-11-2023 are enclosed as Annexure B & C).
- 3. That strangely the appellant again transferred on Administrative ground at GHS Shakar Dhand Charsadda against the vacant post of chowkidar vide order dated 28-03-2024. (Copy of Order dated 28.03.2024 is enclosed as Annexure D).

- 4. That the appellant filed departmental appeal on 03-04-2024 before respondent No 1, which was rejected vide order dated 26-04-2024 copy of which obtained through his own effort on 14-05-2024.(Copy of departmental Appeal & order dated 26-04-2024 are enclosed as Annexure E & F).
- **5.** That the impugned Order dated 28-03-2024 and Order dated 26.04.2024 are against the law, facts and principles of justice on grounds inter-alia as follows:-

GROUNDS:-

1

- A. That the impugned orders are illegal, unlawful, without lawful authority and void ab initio.
- **B.** That the appellant has not been treated according to law and rules on the subject which being his fundamental right as per Article 4, 10 and 25 of the Constitution and law of the land.
- **C.** That the impugned office order is pre-mature as the appellant was transferred to GHSS Dosehra, Charsadda on 20-11-2023 and his transferred order which was withdrawn and again transferred to GHSS Shakar Dhand Charsadda and on this score alone the impugned Office Orders are liable to be set at naught.
- D. That the impugned office order is in violation of transfer posting policy of the provincial Govt. as the same is neither in public interest nor in exigency of service, hence too liable to be set at naught.
- E. That the impugned order is not Speaking order as per section 24 A of the General Clauses Act and as too not tenable in the eyes of law.
- **F.** That according to posting transfer policy of provincial Govt. there is no concept of transfer on Administrative ground.
- . G. That Govt. of Khyber pakhtunkhwa elementary & secondary education department impose complete ban on all kind of posting/transfer vide notification dated 22-03-2024.(Copy of Notification dated 22-03-2024 is enclosed as annexure G).
 - H. That the appellant was appointed as sweeper and could not be transferred against the wrong post as chowkidar according to notification dated 18-11-1998 (Copy of Notification is enclosed as Annexure H).

- I. That appellant being appointed as class (IV) on local basis so can't be transferred to far flung area, being low paid employee.
- J. That the appellant is victimized for no omission or commission on his part.
- **K.** That the appellant seeks the permission of this honorable Tribunal for further/ additional grounds at the time of arguments.

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

Any other relief not specifically asked for and deemed appropriate in the circumstances of the case may also be granted in favor of the appellant.

Dated-:06.06.2024

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<i>را الع</i> ول Appellant		
Through)	
Fazal Shah Moh	mand	L.
Advocate,	V,	
Supreme Court	t of Pa	kistan
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Ibad Ur Rehman	Khalil	1
Advocates, Pesi	nawar	g Sauje

<u>AFFIDAVIT</u>

I, Raj Wali S/o Firdous Khan Sweeper BPS (1) GHS Wardaga R/o Charsadda Tehsil & District Charsadda, do hereby solemnly affirm and declare on oath that the contents of this **Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.



BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA

PESHAWAR

Service Appeal No____/2024

Raj WaliAppellant

VERSUS

Govt. & Others

6

APPLICATION FOR THE SUSPENSION OF IMPUGNED ORDERS DATED 28-03-2024 AND 26-04-2024 OF RESPONDENT NO 1 TILL THE FINAL DISPOSAL OF TITLED APPEAL.

Respectfully Submitted:-

- 1. That the above titled appeal is being filed today, in which no date of hearing has been fixed so far.
- 2. That the facts and grounds of appeal may kindly be considered as integral part of this application.
- **3.** That the applicant/appellant has got good prima facie case and is sanguine of its success.
- 4. That the balance of convenience also lies in favor of the applicant/appellant.
- 5. That the applicant/appellant is still holding the charge of his post and if the impugned orders are not suspended the applicant/appellant will suffer an irreparable loss.

It is therefore prayed that on acceptance of this application, the impugned orders dated 28-03-2024 and 24-04-2024 may kindly be suspended till the final disposal of the titled appeal

> Applicant/Appellant Through Fazal Shah Mohmand Advocate Supreme Court Of Pakistan

.....Respondents

Dated-:06-06-2024

AFFIDAVIT

I, Raj Wali S/o Firdous Khan Sweeper BPS (1) GHS Wardaga R/o Charsadda Tehsil & District Charsadda, do hereby solemnly affirm and declare on oath that the contents of this **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this honorable Tribunal.



رار میل DEPONENT

- S- E=#

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE)

CHARSADDA

OFFICE ORDER

E.

Mr Rajj Wali S/O Firdos Khan Resident Charsadda Tehsil & District Charsadda is hereby appointed as Sweeper at GHS Wardaga in BPS-01 Rs (4800-150-9200) Usual Allowance as admissible under the rules against the Vacant Post from the date of his taking over charge in the interest of public service.

Note: - He is allowed to take over charge on $0^{\frac{3}{2}}$ -06-2013 as his father retired from service.

TERMS & CONDITIONS.

- 1. The appointment has purely been made on temporary basis Liable to termination at any time without assigning any reason or notice.
 - 2. The Candidates are required to produce Health & Age certificate from the authorized Medical Superintendent before taking over charge. They should not be allowed to take over charge it his Age less than 18 years and above 45 years.
 - 3. If Charge is not taken over within 15 days, this order will stand with drawn automatically.
 - 4. Charge report should be submitted to all concerned.

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5. No TA/DA etc is allowed.

(MOIN UDDIN) DISTRICT EDUCATION OFFICER (MALE) CHARSADDA

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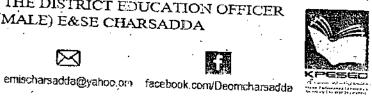
Endstt: No. ____/96-__/Dated Charsadda the ____9_/ 6.6-___ Copy of the above is forwarded for information and necessary action to the:

- 1. District Account Officer Charsadda
- 2. Head Master GHS Wardaga Concerned.
- 3. Official Concerned
- 4. Office File



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) E&SE CHARSADDA

 \bowtie



OFFICE ORDER:

Consequent upon, recommendation of the Head Master GHS Wardaga Charsadda, the services of Mr. Raj Wali Sweeper has placed at the disposal of DEO (Male) Charsadda is hereby adjusted on administrative ground at GHSS Dosehra Charsadda against the vacant post of Sweeper on his own pay & scale in the interest of public service with immediate effect

Note: - No TA, DA is allowed.

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091-9220481-82

Charge report should be submitted to all concerned.

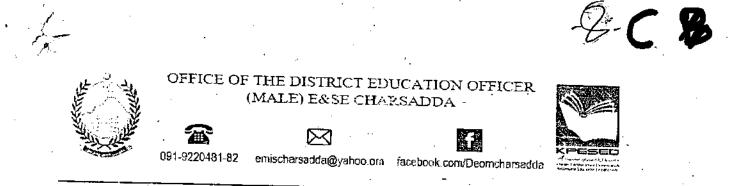
(Dr. ABDUL MALIK) DISTRICT EDUCATION OFFICER (MALE) CHAFGADDA

/2023

Endstt: No 13444 - 49 / Dated Chassadda the 30 /

- Copy for information to the:
- 1. Director (E&SE) Khyber Pakhtunkhwa Feshawar.
- -2. District Accounts Officer Charsadda.
- 3. DMO/EMA Charsadda.
- 4. Head Master GHS Wardaga w/r to his lener No.817 dated 20.11.2023 5. Official concerned
- 6. Office file.

DISTRICT EDUCATION OFFICER (MALE) CHARSADDA



OFFICE ORDER:

The Competent Authority has been pleased to withdraw the transfer order issued vide this office Endst: No. 13444-49 dated 20.11.2023 in the interest of public service from the date of issuance.

(**Dr. ABDUL MALIK**) DISTRICT EDUCATION OFFICER (MALE) CHARSADDA —

/2023

Endstt: No 13646 - 50/dated Charasdda the 23/

- Copy for information to the:
- 1. Diector (E&SE) Khyber pakhtunkhwa
- 2. District Accounts Officer Charsadaa
- 3. Head Master GHS Wardaga Charsadda.
- 4. Official concerned
- 5. Office file.

DIPURICE ADUCATION OFFICER (MALE) CHARSADDA



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) E&SE CHARSADDA

emischarsadda@yahoo.om



OFFICE ORDER:

Consequent upon, the proposal/recommendation of the Head Master concerned, the Competent Authority is pleased to adjust Mr. Raj Wali Class-IV GHS Wardaga Charsadda on **administrative ground** at GHS Shakar Dhand Charsadda against the vacant post of Chowkidar on his own pay & scale in the interest of public service with immediate effect till further ordex.

Note: - No TA, DA is allowed.

091-9220481-82

Charge report should be submitted to all concerned.

(Dr. ABDUL MALIK) DISTRICT EDUCATION OFFICER (MALE) CHARSADDA

/2024

/ Dated Charsadda the 🛃 8

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Endstt: No 3331 - 37

- Copy for information to the:
- 1. Director (E&SE) Khyber Pakhtunkhwa Peshawar.
- 2. District Accounts Officer Charsadda.
- 3. DMO/EMA Charsadda.
- 4. Head Master GHS Wardaga w/r to his etter No.821 dated 21.03.2024
- 5. Official concerned
- 6. Office file.

DISTRICT QUCATION OFFICER MALE) SHARSADDA

District Education Officer (Male), Charsadda

Subject: DEPARTMENTAL APPEAL AGAINST TRANSFER ORDER OF THE APPLICANT DATED 28.03.2024.

Respected Sir;

To

I was posted as Sweeper (BPS-1) at GHS Wardaga from dated 24.06.2013. I was performing my duties with zeal and zest and have no unblemished record.

On 28.03.2014, I was transferred to GHS Shakar Dhand Charsadda on the post of Chowkidar which is a far flung area as I belong to a poor family and transferred to far flung area will \propto adversely effect the financial condition because most of my salary will spend on travelling to the school and nothing left behind for my daily requirements of life.

I kindly request you to cancel my transfer order vide DEO (Male) Letter No. 3331-37 dated 28.03.2024 and allow me to perform my duty as a sweeper.

Yours sincerely,

Raj Wali (CPC) S/o Malik Firdos Khan R/o Noorani Amir Abad, Rajar Tehsil & District Charsadda Cell No. 0316-9367810

-10

Dated 03.04.2024

Copy to:-

1. District Education Officer (Male) Charsadda

2. Director (E&SE) Khyber Pakhtunkhwa Peshawar

- 3. Head Master GHS Wardaga
- 4. Secretary Education, Peshawar

5. Official concerned

- 11 OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) E&SE CHARSADDA DR 091-9220481-82 emischarsadda@yahoo.cm facebock.com/Deomcharsadda 4192 NO. Dated: 26 14 12024To, Mr, Raj Wali S/O malik Firdos Khan, R/O village Noorani Amir Abad Rajjar, Tehsil & District Charsadda. Cell No. 0316-9367810 DEPARTMENTAL APPEAL AGAINST TRANSFER ORDER OF THE SUBJECT:-APPLICANT DATED 28.03.2024 Memo. I am to refer to your appeal on dated 03.04.2024 on the subject cited above and to state that your appeal has been rejected as per report of the Head Master GHS Wardaga Charsadda vide his letter No.822 dated 19.04.2024 you were relieved from your duty and the pay has been stopped. Therefore, you are directed to resume the duty at your transferred school GHS Shakar Dhand Charsadda immediately, otherwise action will be taken against you under E&D rules 2011. **t**eid ICT EDUCATION OFFICER MALE) CHÀRSADDA/ Endst: No. /dated Charsadda the 2024 Copy for information to the:-1. Director (E&SE) Khyber Pakhtunkhwa Pashawar. 2. District Accounts Officer Charsadda. 3. Principal GHS Shakar Dhand Charsadda. 4. DMO/EMA Charsadda. 5. Head Master GHS Wardaga Charsadda. 6. Official Concerned. 7. Master File. DISTRICT EDUCATION OFFICER (MALE) CHARSADDA



GOVERNMENT OF KHYBER PAKIFUNKHWA ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Block-"A" Opposite MPA's Hostel, Civil Scoretariat Peshawar <u>Phone No. 091.9223532</u> Email: sschoolmale@gmail.com



12

l'eshawar Dated 22.03.2024

NOTIFICATION

NO.SO(S/M)E&SED/Mis/11-1/2024: The Competent Authority is pleased to impose complete ban on all kinds of posting/ transfers in Elementary & Secondary Education Department with immediate effect and till further orders, except the posting/adjustment orders to be made in connection with:

- 1. Appointment through Public Service Commission
- 2. Promotions through PSB or DPCs.
- 3. Court cases.

SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA

Endst: of even No. & Date

Copy forwarded to the: "

- 1. PS to Minister for E&SE Department.
- 2. Accountant General, Khyber Pakhtunkhwa Peshawar.
- 3. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
- 4. Director, EMIS E&SE Department.
- 5. All District Education Officers (M/F).
- 6. District Accounts Officer concerned.
- 7. PS to Secretary E&SE Department.
- 8. Office order file.

(NAVELU ULLAH SHAH) DEPUTY SECRETARY (ESTABLISHMENT)

COVENIA ET OF RUFP ENVICES & GENERAL ABELIISTATION DEPARTATION (GENERAL MING) SOLERA (SEGAD) + (153)97/V-1-11.

Bated Feshavar the 18/11/1996.

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all administrative accretaries to Covt: of #4FP.

DATE

I am directed to refer to the subject noted above and to takete that the President, MWPP Civil Secretariat, all Class-IV Suplayers Fissociation and President NdFP Board of Hevenue Association have submitted in joint charter of demonds for consideration of the Provincial Voverment. The demonds were examined by the Provincial Government in detail and the following decisions have been made as mated against each:-

Decision

Lifting of har on appointeent cases with repard to retired employees sous quota.

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SUBJECT:

GLS respect he Ail concern the abovement h splinit.

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Free allotnent of Cycles lying in the presigns of DC Office, Peshawar.

Grant of Liveries to Masids, Gate Mescengers and Bearers during Success season.

Alexandra The converte Alexandra on the second of of character f In a moeting of representatives of the employees association, with the Chief Hinister M#FP on 5.8.1998, it was decised that the reservation of quota for employees of their sons will be adhered to now after the adjustment/absorption of the Surplan fort: Servants However, individual cases of Wardships in respect of deserving ClasselV employees could be considered even earlier on merit. Recessary instructions in this respect have already been issued.

All concerned are recorded to implement the abovementiones decision in letter and spirit.

This defield was also considered in the abovementioned meeting with Chief Minister WFP and it was decided that the Sicycles lying with the BC Pesbawar will be sold ast an to the Classe IV, fort: employees on is price. A summary has already been subsities to Chief Minister NATP-for approval. After receipt of approval, the ways and means o for further distribution on is price which be circulated to all concerned, for further implementation.

The Finance Deptt has just released funds for the summer liveries and the action for the sumply of summer liveries in in progress in the SAGAD While the fund for the Distor Liveries is yet to be released by the Finance Department. The case is being purpose Wisorously by the SAGAD with Finance Deptt.

This demand has been accepted and it has been decided that in future all the vacant posts of Maib Woolds will be filled in by transfer from second all Class-IV coployner of the respective Dept:(crospit Supports, she have to perform specific duties), subject to sectority-con-filmess. All concerned are requested to signly included this decipte.

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GOVERNMENT OF NWFP

SERVICES & GENERAL ADMINISTRATION DEPARTMENT

(GENERAL WING)

No. A(S&GAD) (153) 97/Vol-II Dated Peshawar the 18/11/1998

١

All administrative secretaries To Govt. of NWFP.

Subject:

To,

DEMANDS OF NWFP CIVIL CLASS-IV, EMPLOYEES ASSOCIATION.

I am directed to refer to the subject noted above and toe state that the president, NWFP Civil Secretariat, all class-IV Employee Association and president NWFP Board of Revenue Association have' submitted joint charter of demand for consideration of the Provincial Government. The demands were examined by the Provincial Government in detail and het following decisions have been made as noted against each:-

S.No	Demand	Decision
1.	Lifting of bar are appointment cases with regard to retired employees sons quota	In a meeting or representative of the employees association with the Chief Minister NWFP on 6-8- 1998, it was decided that the reservation by quota for employees of their sons will be adhered to soon
		after the adjustment/absorption of the simples govt. servant however, individual cases of hardship in respect of deserving Class-IV, employees could be considered even earlier on merit. Necessary
		instructions in this respect here already been issued. All concerned are requested to implement the above mentioned decision in letter and spirit.
2.	Free allotment of Cylcles lying in the premises of DC Office, Peshawar	This demand was also considered in the above mentioned meeting with Chief Minster lying with the DC Peshawar will be sold out to the Class-IV, Govt. employees on it price. Chief Minister NWFP for
•		approval after receipt of approval, the ways and class-IV for further distribution on the rules is circulation to all concerned for further implementation.
3.	Grant of Liveries to asides, Gate Messengers and Bearers during session	The finance Deptt has just released funds for the summer liveries and the action for the supply of summer liveries is in possess in the S&GAG while the fund for the summer liveries is get to be released by the Finance Department. The case is being proceed rigorously by the S&GAD with Finance Deptt
4	All other class-IV employees converted as/asides chowkidar	This demand has been accepted and is been decided that in future all the vacant posts of Naib Qasid will be filled in by transfer from among all Class-IV employees of the respective Deptt (except) sweepers, have to perform specific duties), subject to seniority com-fitness. All concerned are to implement into decision.

مرور کو نو فر فی کو ال ا<u>م 202</u> بخاب دا.ح وکی بنام حکومت وسره كوزى Kervin Appeal ----مقدم دعوكي 7. Bc. 10-5543 1)65 باعث تحريرا نكر مقدمه مندرج عنوان بالاش ابخ المرف من داسط بیروی دجواب دای دکل کاردانی متعلقه (مراحر ب آن مقام مستر مدر مسیس کیلیے جمعیل شرائ منہ میں میں دالری ای مسلم کار داری اور الرک ان م مقرركر ب اقراركماً جاتا ب- كدصا حب موصوف كومقدم ككل كاردا لى كاكال اختيار ، وكار نيز وکیل صاحب کوراضی نامه کرنے دتقر رثالت ہ فیصلہ برحلف دیتے جواب دہی ادرا قبال دعوی ادر يسورت ذكري كرفي اجراءاورصولى چيك درويد ارعرضي دعوى ادردرخواست برتتم كي تصدريق زرای پردستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم بیرد کیا ڈگری بکطرفہ یا اپیل کی براند کی ادرمنسوخی نيز دائر کرنے اپيل حکمرانی دنظر ثانی دبير دی کرنے کا اختيار ہوگا۔ از بصورت ضرورت مقد مہذ کور کے کل یا جزوی کا روائی کے واسط اور دکیل یا مختار قانونی کواسیت ہمراہ پا اسینے بچائے تقرر کا اختیار ہوگا۔اورمیا حسب مقرر شدہ کوہمی دہی جملہ ندکورہ باا ختیا رات حاصل ہوں کے اور اس کا ساختہ برداختة منظور تبول موكار دوران مقدمه ميس جوخر جدد مرجانه التواسة مقدمه سك سيب سے وہوكا۔ 12 کوئی تاریخ بیشی مقام دورہ پر ہویا حدسے باہر ہوتو دکیل صاحب پابند ہوں گے۔ کہ بیردی مركودكم يرب ليداوكالمت نام كمعديا كمستدر ي . Jan シっ ·2024 _ U. 1 الرتوم <u>60</u> Attalled 4 will sla Accepted - - - Det gent \int 9 Sawy ??.