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BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 123/2024

Inayat Ullah_____ **(APPELANT)**

Versus

District Education Officer Male District Buner and others

_____ **(RESPONDENTS)**

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04-07-24

Deponent
15101-0882586-3

c/R.

BEFORE THE KHYBER PUKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 123/2024

Inayat Ullah S/O Muhammad Dildar R/O Village Takhta Band Tehsil Gagra District Buner

_____ **(APPELANT)**

Versus

1. District Education Officer Male District Buner
2. Sub Divisional Educational Officer (M) Tehsil Chagharzi District Buner
3. Director, Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar
4. Secretary, Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar
5. District Account Officer Buner at Daggar

_____ **(RESPONDENTS)**

Written Reply/Para wise Comments for & on behalf of Respondents No. 1, 2, 3, 4 & 5

Preliminary Objections

1. That according to the judgment of the honorable Khyber Pakhtunkhwa Service tribunal in Service Appeal No. 1678/2022, the instant appeal is not maintainable. **(Copy annexed).**
2. That the appellant has no vested right to continue or hold a particular post at a particular place, thus is liable to be transferred anywhere in exigencies of service, hence the suit is not maintainable.
3. That the remedy of departmental appeal against the impugned order is available to the appellant, which he did not avail, hence the instant appeal is not maintainable.
4. The Appellant has no cause of action/locus standi to file the instant declaration of right.
5. The Appellant has concealed the material facts from this honorable court, hence liable to be dismissed.
6. That the appeal is wholly incompetent, misconceived and untenable.
7. It shows no strong cause to be taken for adjudication, therefore, the same is liable to be rejected/ dismissed.
8. That the instant appeal is unjustifiable, baseless, false, frivolous and vexatious. Hence the same is liable to be dismissed with the order of special compensatory cost in favor of respondent.
9. That the instant appeal is not maintainable in the present form and also in the present circumstances of the issue.
10. The Appellant has not come to this honorable court with clean hands.
11. The Appellant has filed the instant appeal just to pressurize the respondent.
12. The appellant has filed the instant appeal on mala-fide motives.

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13. The instant litigation is against the prevailing law and rules.
14. The appellant has been estopped by his conduct to file the appeal.
15. That every Government servant is bound to perform his duties anywhere in the best interest of public service.

Facts

1. Incorrect and hence denied. The post of SPST, BPS-14, is a district cadre post and not a union council-based post. Under the **Khyber Pakhtunkhwa Appointment, Deputation, Posting and transfer of teachers, Lecturers, Instructors and Doctors Regulatory Act 2011 (KP Act No. XII of 2011)**, only PST, BPS-12, is a union council-based post, which cannot be transferred out from his/ her union council, while SPST BSP-14 and PSHT BPS-15 are district cadre posts. They can be posted anywhere in the district. Thus, the appellant, under the said act, has no right to claim his posting within his own union council.

   Furthermore, the adjustment of the appellant at GPS Alagarm was due to the following factual position:

   That after promotion from PST to SPST, the appellant was adjusted at GPS Sawari.

   i. That the appellant applied for Extra Ordinary Leave of 120 days with full pay and 30 days without pay which was granted. **(Sanction of E. O. L is attached as Annexure "A")**
   ii. That after the expiry of the E. O. L, the undersigned adjusted the appellant at GPS Alagram due to the shortage of teaching staff. **The said order is attached as annexure "B".**

   Likewise, the transfer order in respect of the appellant is legal and lawful. As per rules, the competent authority can transfer a civil servant serving in Elementary &Secondary Education Department anywhere within his cadre, post and district. Civil servant could not stay at a place of his choice unless operation of transfer order stayed, which is not the position in the case. Such view of the issue, according to the Service Tribunal, if affirmed, would give license to every Civil Servant to file a representation against order of transfer and stay at place from which he did not want to move, as such the same would create administrative chaos. ***Same is reported in 2006 SCMR 443.*** Similarly, Civil Servant could not disobey transfer order. ***Same is reported in 2003 PLC (CS)104.*** Employees were liable to be transferred anywhere in exigencies of service, having no vested right of his choice for a specific place. ***Reliance is placed on 1998 SCMR 293.***

2. Incorrect and hence denied. The plaintiff has never ever performed to the satisfaction of the competent authority. He frequently resorts to absence and leave, and the report of the SDEO (M) Gagra regarding his absence on 09-10-2020, report of Educational Monitoring Authority of his absence on 03-06-

2021 and the sanction of leave of about 440 days in the span of about 2.5 years speaks volume about his irresponsible behavior. Thus, the stance of the appellant of performing his duty in an efficient manner is baseless. **(Reports regarding absence and sanction of leave of the appellant are attached as Annexures "C, D, A&E")**

3. Incorrect and hence denied. As explained in para 1 of the facts, the post of SPST BPS-14, is a district cadre post and not a union council-based post. Under the **Khyber Pakhtunkhwa Appointment, Deputation, Posting and transfer of teachers, Lecturers, Instructors and Doctors Regulatory Act 2011 (KP Act No. XII of 2011)**, only PST, BPS-12, is a union council-based post, which cannot be transferred out from his/ her union council, while SPST BSP-14 and PSHT BPS-15 are district cadre posts. They can be posted anywhere in the district. Thus, the appellant, under the said act, has no right to claim his posting within his own union council.

   The transfer order in respect of the appellant is legal and lawful. As per rules, the competent authority can transfer a civil servant serving in Elementary &Secondary Education Department anywhere within his cadre, post and district. Civil servant could not stay at a place of his choice unless operation of transfer order stayed, which is not the position in the case. Such view of the issue, according to the Service Tribunal, if affirmed, would give license to every Civil Servant to file a representation against order of transfer and stay at place from which he did not want to move, as such the same would create administrative chaos. ***Same is reported in 2006 SCMR 443.*** Similarly, Civil Servant could not disobey transfer order. ***Same is reported in 2003 PLC (CS)104.*** Employees was liable to be transferred anywhere in exigencies of service, having no vested right of his choice for a specific place. ***Reliance is placed on 1998 SCMR 293.***

   Furthermore, the transfer order in respect of the appellant has no legal infirmity, and is therefore, complete in all respects. His post is a district cadre post and he is required to serve anywhere in the district where the competent authority transfers him in the public interest. As per rules, a civil servant is required to relinquish charge immediately after he is transferred to some other station and he is not allowed to use delaying tactics thereof. Similarly, Civil Servant could not disobey transfer order. ***Same is reported in 2003 PLC (CS)104.*** In addition, since transfer of a civil servant is no punishment, therefore, it does not require any personal hearing or opportunity of being heard. ***Section-10 of Civil Servants Act, 1973*** provides sufficient clearance which reads as follow:

   "Posting and transfer: - Every civil servant shall be liable to serve anywhere within or outside Pakistan, in any equivalent or higher post under the Federal Government, or any Provincial Government, or local

authority, or a corporation or body set up or established by any such Government."

4. Pertains to the record. The respondent department granted E. O. L of about 09 Months and 20 Days without pay to the appellant on his application and subsequent recommendation of the concerned SDEO. **(Sanction of E. O. L. without pay is alredy attached as Annexure "E")**

5. Pertains to record. The appellant was on leave w.e.f 01/03/2022 while he submitted application for transfer on 7/12/2022 during his leave period. As per rules, transfer of an employee cannot be made during leave period. It is evident from his application dated 7/12/2022 that leave of the appellant has not yet expired. He was required to submit his arrival report to the competent authority for proper adjustment against a vacant SPST post, which he didn't and remained absent till he was adjusted at GPS Gujjar Abad**(attached as annexure "F")** on the report/letter of the SDEO concerned. (transfer application, the letter of the concerned SDEO are attached as annexures "G", "H").
6. As replied in above paras.
7. Incorrect and hence denied. After completion of E. O. L without pay of 9 months and 20 days of the appellant, the appellant neither informed the concerned SDEO nor this office in order for his adjustment and, hence, he remained absent w. e. f 21-12-2022 till the adjustment at GPS Gojjar Abad. And, reportedly, he adjusted himself in a certain school without informing the SDEO and proper order/ approval of the undersigned, thereby, exercising the authority of the undersigned, which is utter violation of rules and regulations. In this regard, a show cause was served upon the appellant on 20-02-2023. **(The show cause is attached is Annexure "I")**
   However, on the report of the concerned SDEO, the respondent department adjusted the appellant at GPS Gojjar Abad due to shortage of teaching staff. **(The adjustment of the appellant at GPS Gojjar Abad is already attached as Annexure "F")**
8. Incorrect and hence denied. The appellant has not been transferred to GPS Gujjar Abad rather he was adjusted after completion of his E.O.L. the appellant has not only committed non-compliance of official order but also remained absent from his duty after his adjustment. Furthermore, it is clarified that he is an SPST teacher in BPS_14, which is a district cadre post and not union council based, therefore, his claim that he was adjusted out of his union council is the result of speculations and conjectures. Pertains to the record.
9. Incorrect and hence denied. The adjustment of the appellant after expiry of his E.O.L. is in accordance with rules and regulations, hence legal and valid.

10. Incorrect hence denied. The impugned adjustment order has already been communicated to the appellant through dak as well as official whatsapp groups. However, he did not comply with the adjustment order and wanted to adjust himself in the place of his choice, wish and whims. Upon non-compliance, he was served with a show cause notice vide no. 873-77 dated 20/2/2023, the reply of which was submitted by the appellant on 2/3/2023. In the light oif his reply to the show cause notice, he was called for personal hearing on 20/3/2023 for which he appeared on the same date before DY;DEO as authorized officer. During personal hearing he submitted his reply to questions asked by the authorized officer. In the light of above facts, it is without any doubt that he not only received his adjustment order at GPS Gujjar Abad but was well aware of his adjustment order, which he accepted in his reply to the questions posed during personal hearing and in show cause notice. Thus the appellant's denial of receiving the impugned order is ludicrous and out of place, hence not convincing.
11. Incorrect and hence denied. Already explained in para "7" of the facts.
12. Correct to the extent that the appellant has submitted reply to the show cause notice , which was about absence, misconduct and non-compliance of adjustment order. After fulfilling all the codal formalities, he was awarded major penality of reduction to lower post and scale. In this para the appellant rebutted his own claim made in para "10" of not receiving the adjustment order.
13. The first part of the para is incorrect. The impugned order was issued by the competent authority after fulfilling all the codal formalities and it is in accordance with rules and policy. Rest of the para pertains to record.
14. Incorrect hence strongly denied. Already explained in para "12" of the facts.
15. After the reduction of the appellant to a lower post and scale i.e PST BPS-12 and his subsequent adjustment at GPS Baishpur 31/5/2023**(the said order is attached as annexure "J")** in his own union council Rega, the appellant failed to comply the orders of the competent authority and was reported by the concerned SDEO as absent vide his office letter no. 1157 dated 14/06/2023, attached as annexure "K". Afterwards an absence notice through letter bearing Endst; No. 3046 dated 26/6/2023, Regd; No. 105799287 dated 27/6/2023 was served upon the appellant by this office on his home address. **Attached as annexure "L".** When the appellant didn't resume his duty, an absence notice was sent to the Director Information Govt; of Khyber Pakhtunkhwa Peshawar vide this office letter No. 3385,dated 21/7/2023**(attached as annexure "M")** regarding the publication of his absence in leading national dailies. As per rule-9 of the Khyber Pakhtunkhwa Govt; servants(efficiency & Discipline) Rules 2011 notices were published in two leading newspapers, i.e. The Daily Azadi Swat dated 28/7/2023

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(Attached as annexure "N"),& Daily Aaj Peshawar dated 3/8/2023**(attached as annexure "O")** directing him to resume his duties within 15 days of the publication of the absence notice in the newspapers and also show reasons of his absence from duty but he failed to resume his duty. As a result the appellant was removed from service under Rule-9 of the Khyber Pakhtunkhwa Govt; Servants(Efficiency and Discipline) Rules 2011 vide this office Endstt No.4011-17 dated 21/8/2023. **The removal notification is attached as annexure "P".** The removal order was communicated to the appellant through the official whatsapp groups.

16. Pertains to record.
17. Incorrect hence strongly denied. All the actions taken against the appellant are in accordance with rules and policy. All the codal formalities have been fulfilled and no injustice has been done to the appellant.

Grounds:

A. Incorrect hence strongly denied. The impugned orders have been made in accordance with the law, rules and policy. There is no legal infirmity. All the orders issued by respondent no.1 are in accordance with the Khyber Pakhtunkhwa Civil Servants Act 1973 and the Khyber Pakhtunkhwa Govt; Servsnts (Efficiency & Discipline) Rules 2011.

B. Incorrect and hence denied. The impugned orders are in complete consonsnce with the KP(Appointment, Deputation,Posting and Transfer of Teachers, instructors and Doctors) Regulatory Act 2011.

C. Incorrect and hence denied. The actions of the respondent no. 1 are according to the prevailing rules and policy. No injustice has been committed as far as the actions of the respondent no. 1 against the appellant are concerned.

D. Incorrect and hence denied. Already explained in para "7" of the facts.

E. Incorrect and hence denied. The appellant is resorted to lies and speculations. Inspection of schools comes under the responsibilities of the respondent no.1. the respondent no.1 does not have any enmity with the appellant. On the day of inspection in the school of the appellant, he was found absent and disciplinary action was taken against him. As far as the communication of the impugned order dated. 17/2/2023 to the appellant is concerned, it has already been explained in para "10" of the facts.

F. Incorrect and hence denied. Already explained in para "5" of the facts.

G. Incorrect and hence denied. Already explained in para "5" of the facts.

H. Correct to the extent that respondent no. 1 stopped the salary of the appellant w.e.f. 21/12/2022 on account of non-submission of application for re-adjustment after the expiry of his E.O.L on 20/12/2022 and his non-compliance of This office letter bearing Endst; no.802-05 dated 17/2/2023, attached as annexure"".

In light of The above submissions, it is humbly requested that the instant service appeal may graciously be dismissed in favour of the respondent department.

DIRECTOR
ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR

DISTRICT EDUCATION OFFICER
MALE BUNER

SUBDIVISIONAL EDUCATION OFFICER (MALE)
CHAGHARZAI BUNER

DISTRICT ACCOUNT OFFICER BUNER

SECRETARY ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR

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BEFORE THE KHYBER PAKHTUN KHAWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 123/2024

Inayat Ullah **Appellant**

V/S

District Education Officer Male District Buner & OTHERS

Respondents

AFFIDAVIT

I, Ubaid ur Rahman, Superintendent BPS-17, District Education Office (Male) Buner, do hereby solemnly affirms & state on oath that the whole contents of the comments are true & correct to the best of my knowledge & belief & nothing has been concealed from this Honourable Court.

Deponent

15101-0882586-3

ATTESTED

Azmat Ali Advocate Noor Civil Judge Campus Swabi

28-6-2024

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

BEFORE: **KALIM ARSHAD KHAN ...CHAIRMAN**
MIAN MUHAMMAD ...MEMBER (Executive)

Service Appeal No.1678/2022

Date of Presentation of Appeal.....21.11.2022
Date of Hearing.....05.01.2023
Date of Decision.....05.01.2023

Mst Parveen Begum, District Education Officer (F) (BPS-19), Elementary & Secondary Education Department, Karak
.....(*Appellant*)

Versus

1. **The Government of Khyber Pakhtunkhwa through Chief Secretary,** Civil Secretariat, Peshawar.
2. **Secretary** to the Government of Khyber Pakhtunkhwa Elementary and Secondary Education Department, Civil Secretariat, Peshawar.
3. **Director** Khyber Pakhtunkhwa Elementary and Secondary Education Department, Near Malik Saad Shaheed BRT Station, Firdos.
4. **Mst Fanoos Jamal,** Deputy DEO (F) (BPS-18) Elementary & Secondary Education Department, District Khyber
.....(*Respondents*)

Present:

Mr. Noor Muhammad Khattak,
Advocate.....For appellant.

Mr. Muhammad Adeel Butt,
Additional Advocate General.....For official respondents.

Mr. Muhammad Asif Yousafzai,
Advocate.....For Private respondent.

SERVICE APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974, READ WITH CLAUSE NO. XIV OF THE KHYBER PAKHTUNKHWA GOVERNBMENT TRANSFER POLICY AGAINST THE

IMPUGNED POSTING/TRANASFER ORDER ENDS. NO. SO(MC)E&SED/4-16/2022PT/TC DATED 20.10.2022 OF RESPONDNET NO.2 WHEREIN APPELLANT WAS TRANSFERRED AND POSTED AS A DISTRICT EDUCATION OFFICER (F) KOHISTAN UPPER AND AGAINST WHICH APPELLANT FILED DEPARTMENTAL APPEAL WHICH IS STILL PENDING WIHTOUT DISPOSAL.

JUDGMENT

KALIM ARSHAD KHAN CHAIRMAN: Through this service appeal, the appellant has impugned posting/transfer order bearing Endst No.SO(MC)E&SED/4-16/2022PT/TC dated 20.10.2022, whereby the appellant was transferred from the post of District Education Officer (F) Karak and posted as District Education Officer (F) Kohistan Upper.

2. The prayers in the appeal are to:

   i. ***Declare the impugned order of respondent No.2 bearing Endst No.SO(MC)E&SED/4-16/2022PT/TC dated 20.10.2022 as illegal, unlawful, without lawful authority, against the Posting Transfer Policy of Khyber Pakhtunkhwa and set aside the same.***

   ii. ***Direct the respondents to allow the appellant to serve as a District Education Officer (F) Karak till the completion of her normal tenure as per Posting, Transfer Policy of Government of Khyber Pakhtunkhwa.***

   iii. ***Any other reliefs deemed appropriate in the circumstances of the case and not specifically asked for may also be graciously granted to the appellant.***

3. According to the appeal, the appellant was serving as District Education Officer (F) Karak, having been posted there on 05.07.2022 vide Notification

No. SO(MC)E&SED/4-16/2022/Posting/Transfers/MC, was transferred from the said post just after three months vide the impugned transfer Notification No. SO(MC)E&SED/4-16/2022PT/TC dated 20.10.2022 to Kohistan Upper purely on political motivation; that the appellant initiated departmental action against Wasiullah Driver, who was cousin of the sitting MNA Shahid Ahmad Khattak; that the appellant paid surprise visits and took actions against Mst. Mehwish Saeed PET along with two others, as they were found absent without leave application or prior approval; that Mst. Mehwish Saeed was wife of the said MNA; that the impugned order was also the result of non-compliance of the directions of the sitting MNA; that the private respondent was Deputy DEO (F) in BPS-18, who was transferred in place of the appellant, in her own pay and scale, which act was malafide; that the impugned order was against the Policy of the Government; that the appellant filed departmental appeal, which was not decided and she filed writ petition before the honourable Peshawar High Court; that the honourable Peshawar High Court, vide judgment dated 03.11.2022, directed respondent No.1 to decide the departmental appeal within 10 days and in case the departmental appeal is not decided within 10 days, the appellant might approach the competent forum directly, hence, this appeal.

4. On receipt of the appeal and its admission to full hearing, the respondents were summoned, who, on putting appearance, contested the appeals by filing written replies raising therein numerous legal and factual objections. The defence setup was a total denial of the claim of the appellant.

It was specifically urged in the reply of the official respondents that after 37th day of the transfer the appellant went to the office of the District Education Officer (F) Karak and committed assault by breaking locks of the doors and illegally occupying the said office despite the fact that the private respondent had assumed the charge on 24.10.2022 and had drawn salary against the post of DEO(F) Karak; that the appellant had been treated as per law, rules, Transfer and posting policy and in terms of Section 10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 as the appellant, being a grade 19 officer, was liable to serve anywhere in the province, wherever her services are required by the competent authority in view of Section 2(b) of the said Act; that the appellant had been found guilty of willful absence from duty against the post of DEO(F) Kohistan Upper with effect from the date of transfer till 29.11.2022without any formal leave sanction order and approval of the competent authority; that without waiting for the period prescribed by law, the appellant approached this Tribunal. The private respondent also submitted reply and contended that the impugned notification had already been acted upon by the private respondent as she had assumed the charge of the post of the DEO(F) Karak and had drawn salary against the same.

5. We have heard learned counsel for the appellants, learned Additional Advocate General for the official respondents and learned counsel for the private respondent.

6. The learned counsel for the appellant argued that the appellant was prematurely transferred; that the transfer order was result of political pressure; that the order was passed by incompetent authority and that the impugned transfer notification was in disregard of the policy of the Government. He also reiterated the facts and grounds detailed in the memo and grounds of the appeal while the learned Additional Advocate General and learned counsel for the private respondent refuted the arguments of the learned counsel for the appellant and supported the issuance of the impugned notification.

7. There is no denial of the fact that the appellant was transferred from the post of the DEO(F) Karak just after three months of her posting but while granting relief in favour of a party the conduct of that party is always seen and considered in perspective. In this case the official respondents, in their comments, have stated in categorical terms that the appellant had not only not complied with the order of the competent authority by not assuming the charge on the new assignment for quite long time but also presented herself as an undisciplined officer. The official respondents, in their reply/comments, leveled serious allegations on the appellant of her going to the office of the DEO(F) Karak, after 37th day of the transfer, breaking the locks and illegally occupying the office despite the fact that the incumbent private respondent No.4 (Mst. Fanoos Jamal)had already assumed the charge of the post of DEO(F) Karak on 24.10.2022. The factum of assumption of charge by Mst. Fanoos Jamal is supported by the charge assumption report annexed with the reply. Similarly, the allegations made in the reply regarding breaking the locks

and illegally occupying the office of DEO(F) Karak as well as assumption of charge by Mst. Fanoos Jamal have not been denied during the course of arguments. The appellant even failed to deny the allegations and assumption of charge by Mst. Fanoos Jamal by submitting any rejoinder in response to the reply/comments filed by the official respondents. The learned counsel for the private respondent produced some official documents all signed on different dates from 02.11.2022, 04.11.2022, 14.11.2022 and 22.11.2022 by the private respondent in her capacity as DEO(F) Karak, which were also not denied nor controverted by the appellant. These letters further strengthened the contention of the respondents that the private respondent had assumed the charge on 24.10.2022, had actualized and drawn her salary against the post of DEO(F) Karak and had also been performing duties. Therefore, the contents of the comments filed by the authorities as well as the official documents issued under the signature of private respondent had gone unrebutted/unchallenged. During the tug of war between the appellant and the private respondent, when once the appellant had approached this tribunal and when once the private respondent had assumed the charge it did not suit to the majesty of a grade 19 officer (the appellant) of education department and that too lady to have gone to the office of the District Education Officer (F) Karak and have broken the locks and occupied the office. Instead of indulging into unwanted activities, which appear to be those of an unbecoming officer, the appellant ought to have adopted legal way by moving/informing the tribunal about the wrong, if any, happened to her in performance of her duties, in case she was of the view that she was right to occupy the office of the DEO(F)

Karak, after getting the impugned transfer order suspended from the tribunal on 28.11.2022. As against that there is charge assumption report dated 24.10.2022 of private respondent i.e. more than a month before the passage of the conditional suspension order by this Tribunal passed on 28.11.2022 that the operation of the impugned order stood suspended, **if not already acted upon.** In this case, the impugned order was admittedly acted upon before issuance of the suspension order by this Tribunal, which fact has otherwise rendered this appeal fruitless besides where was the appellant, during the period from her transfer made on 20.10.2022 till 28.11.2022, is also not known. Was she on leave or on duty, is an unanswered question which was required to have been answered by the appellant especially when she was issued show cause notice by the department regarding non-compliance of transfer order and of her absence from duty since her transfer. The copy of show cause notice was produced by the learned law officer during the course of arguments. Even the issuance of the show cause notice was not denied by the appellant's learned counsel during the arguments. Vide letter No.10-14 dated 29.11.2022, the private respondent had lodged a complaint to the Secretary Elementary and Secondary Education Khyber Pakhtunkhwa, against the appellant for her illegal interference in the official business. Copy of this letter has been annexed with the reply of the private respondent and a copy was also produced by the learned counsel for the appellant during the course of arguments. The letter stated that after issuance of the impugned transfer order, the private respondent assumed the charge of the post of DEO(F) Karak and continued office work, field visits and also attended official meetings with

district administration, directorate and secretariat; that she visited 38 schools in 40 days at district Karak and all the reports were uploaded on PMRU website; that she also punched her salary as DEO(F) Karak; that the appellant remained absent/disappeared during that period and she also illegally occupied the official vehicle; that she (the private respondent) made a request vide letter No.4607-9 dated 11.11.2022 to direct the appellant to hand over the official vehicle to the private respondent as official business was being suffered badly; that the Secretary Elementary and Secondary Education Khyber Pakhtunkhwa directed the appellant vide letter No.SOG/E&SE/1-40/ACR/2022 dated 15.11.2022 to hand over the vehicle to the private respondent; that the official vehicle was handed over by the appellant to the private respondent on 16.11.2022contending that owing to her medical leave, the vehicle was retained by her but as per the office record the appellant had not obtained any medical leave; that the appellant reoccupied the chair of the DEO(F) Karak on 29.11.2022 claiming that this Tribunal has suspended her transfer order; that she misinterpreted the order sheet; that the appellant had been trying to create hurdles in smooth official business; that the appellant illegally took into possession the diary and dispatch registers; that a few clerical staff provided her all the official record and they continued to facilitate her; that the appellant refused to obey the transfer order issued by the competent authorities; that such a trespass in the government office brought bad name and reputation for the department as a whole and would encourage the other officers to follow her footsteps. At the end a request was made for guidance. A letter bearing No.43-49 dated 01.12.2022 was also written by the private respondent to the

District Police Officer, Karak reporting that the appellant along with Mr. Tariq Senior Clerk and Mr. Asad Dispatcher entered the office of DEO (F) Karak and took away diary and dispatch registers and other official record; that the appellant along with the above named two officials on 01.12.2022, once again, disrupted the professional environment of DEO(F) office Karak; that the appellant encroached the office and broke the locks of the office; that they illegally took into possession office record and important files; that the appellant illegally occupied the office and chair of the DEO(F); that there was uncertain and tense environment in the office and the appellant had not only disrupted the professional environment but the non-professional and bullying attitude had created chaos in the office; that the appellant arrogated the authority of the competent authorities. These letters were also not denied by the appellant. So the conduct of the appellant by not complying with the order of the competent authority, her prima facie absence from duty, breaking the locks of the office of the DEO(F) Karak, occupying the same and suppressing the facts narrated above, have disentitled the appellant to the desired relief at least prayed in this appeal. Reliance is placed on 2000 SCMR 1117 titled "*Akhtar Hussain versus Commissioner Lahore*" regarding disentitlement of a party for the conduct of the party. 1988 PLC (CS) 844 titled "Ahmed Waqar versus Capital Development Authority, Islamabad" can also be referred in this regards.

8. Keeping in view the above conduct of the appellant, her contention of premature transfer against the provisions of the Posting and Transfer Policy, is

untenable as in the circumstances described above, the exigency and public interest would be to keep the impugned order intact and in such a situation the powers of the authorities vested in them under section 10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 appear to have rightly and fairly been exercised. Section 10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 pertains to the posting and transfers of the civil servant and is reproduced for ready reference:

> *"10. Posting and transfers.--- Every civil servant shall be liable to serve anywhere within or outside the Province in any post under the Federal Government, or any Provincial Government or local authority, or a corporation or body set up or established by any such Government:*
>
> *Provided that nothing contained in this section shall apply to a civil servant recruited specifically to serve in a particular area or region:*
>
> *Provided further that where a civil servant is required to serve in a post outside his service or cadre, his terms and conditions of service as to his pay shall not be less favourable than those to which he would have been entitled if he had not been so required to serve."*

According to section 10, desired posting is not the perpetual right of a civil servant and the department concerned can transfer any civil servant to serve at thegiven place as mentioned in the transfer/posting order, while the civil servant cannot refuse compliance. Though, a ground for malafide can be based and agitated against an arbitrary, fanciful posting order based upon ill-will and inherent biases of the superior authorities. (See judgment dated 16.08.2022 of the honorable Peshawar High Court in Writ Petition No.439-B of 2022 titled "*Hayatulah Khan versus Secretary Communication and Works Khyber Pakhtunkhwa and another*"). The facts and circumstances enumerated

above do not show any malice, arbitrariness, fancifulness and biasness of the official respondents/authorities.

9. The Central Administrative Tribunal – Delhi, in the case of Sh. Jawahar Thakur- vs- Union Of India held on 19 June, 2015 that it is more than stare decisis that transfer is an incidence of service and it is for the executive/administration to decide how to and where to use its employees subject to the conditions of their appointment in the best interest of the organization and public service. It is not always possible and feasible to record strong reasons for allowing an officer to continue at a particular station for a few years or more or less.

10. In the case of Laxmi Narain Mehar v. UOI & Ors., JT 1997 (1) 24 Page 460, Hon'ble Supreme Court of India viewed that in view of the express indication for need of experienced staff at the respective places, the transfer order cannot be said to be arbitrary. Therefore, services of the appellant, admittedly, because of her being a senior and experienced officer, might be needed by the authority at the new place of posting.

11. The Hon'ble Supreme Court in Mrs. Shilpi Bose and Others v. State of Bihar and Others 1991 Supp.(2) SCC 659 went into in the issue of guidelines and has upheld the authority of the employers to transfer the employee in the following words:-

"4. In our opinion, the Courts should not interfere with a transfer order which are made in public interest and for administrative reasons (unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of mala fide. A Government servant holding a transferable post has no vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other. Transfer orders issued by the Competent Authority do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or orders, the Courts ordinarily should not interfere with the order instead affected party should approach the higher authorities in the Department. If the Courts continue to interfere with day-to-day transfer orders issued by the Government and its subordinate authorities, there will be complete chaos in the Administration which would not be conducive to public interest. The High Court over looked these aspects in interfering with the transfer orders."

12. In State of U.P. and Others v. Goverdhan Lal, : 2004 (3) SLJ 244 (SC) it has been held thus:-

"8. It is too late in the day for any Government servant to contend that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires. Transfer of an employee is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service in the absence of any specific indication to the contra, in the law governing or conditions of service. Unless the order of transfer is shown to be an outcome of a mala fide exercise of power or violative of any statutory provision of (an Act or Rule) or passed by an authority not competent to do so, an order of transfer cannot lightly be interfered with as a matter of course or routine for any or every type of grievance sought to be made. Even administrative guidelines for regulating transfers or containing transfer policies at best may afford an opportunity to the officer or servant concerned to approach their higher authorities for redress but cannot have the consequence of depriving or denying the Competent Authority to transfer a particular officer/servant to any place in public interest and as is found necessitated by exigencies of service as long as the official status is not affected adversely and there is no infraction of any career prospects such as seniority, scale of pay and secured emoluments. This Court has often reiterated that the order of transfer made even in transgression of administrative guidelines cannot also be interfered with, as they do not confer any legally enforceable rights, unless, as noticed supra, shown to be vitiated by mala fides or is made in violation of any statutory provision.

9. A challenge to an order of transfer should normally be eschewed and should not be countenanced by the Courts or Tribunals as though they

are Appellate Authorities over such orders, which could assess the niceties of the administrative needs and requirements of the situation concerned. This is for the reason that Courts or Tribunals cannot substitute their own decisions in the matter of transfer for that of Competent Authorities of the State and even allegations of mala fides when made must be such as to inspire confidence in the Court or are based on concrete materials and ought not to be entertained on the mere making of it or on consideration borne out of conjectures or surmise and except for strong and convincing reasons, no interference could ordinarily be made within an order of transfer.

From the aforementioned, it is evident that the posting to any particular place is not a legal right. Article 14 guarantees equality before law only. Right to equality is a positive concept. One can allege violation of Article 14 only where there is enforceable legal right. In the absence of such right, question of discrimination or violation of Article 14 does not arise."

13. The august Apex Court of India further goes ahead to the extent of holding that an employee is to obey the transfer order before he earns a right to challenge the same in Gujarat State Electricity Board versus Atma Ram Sunagomal Poshni (1989) 2 SCR 357 and further that even if there be non-compliance with the with the provisions of the posting norms, order of transfer will not be vitiated;

> *"2. Transfer of a Government servant appointed to a particular cadre of transferable posts from one place to the other is an incident of service. No Government servant or employee of Public Undertaking has legal right for being posted at any particular place. Transfer from one place to other is generally a condition of service and the employee has no choice in the matter. Transfer from one place to other is necessary in public interest and efficiency in the public administration. Whenever, a public servant is transferred he must comply with the order but if there be any genuine difficulty in proceeding on transfer it is open to him to make representation to the competent authority for stay, modification or cancellation of the transfer order. If the order of transfer is not stayed, modified or cancelled the concerned public servant must carry out the order of transfer. In the absence of any stay of the transfer order a public servant has no justification to avoid or evade the transfer order merely on the ground of having made a representation, or on the ground of his difficulty in moving from one place to the other. If he fails to proceed on transfer in compliance to the transfer order, he would*

> *expose himself to disciplinary action under the relevant Rules, as has happened in the instant case. The respondent lost his service as he refused to comply with the order of his transfer from one place to the other."*

14. Last but not the least, this appeal has been filed without waiting for 90 days' waiting period provided under the law for the appellate departmental authority to decide the departmental appeal but today copy of a Notification No. SO(MC)E&SE/4-16/2022/Posting/Transfer/MC dated 19.12.2022 was produced whereby the departmental appeal of the appellant was regretted. The appellate order regretting appeal passed by the appellate authority has also not been challenged.

15. For the above stated reasons this appeal fails and is dismissed with costs. Consign.

16. ***Pronounced in open Court at Peshawar and given under our hands and the seal of the Tribunal on this 5th day of January, 2023.***

MIAN MUHAMMAD
Member (Executive)

KALIM ARSHAD KHAN
Chairman

Amoxm''A''

(23)

OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) DISTRICT BUNER
PHONE & FAX NO. 0939-510468
EMAIL: edobuner@gmail.com

SANCTION.

As approved by the competent authority sanction is hereby accorded to the grant of E.O.Leave/Earned leave with effect from **08/05/2019 to 05/10/2019(120 days with full pay and 30 days with out pay)**, in R/O **Inayatullah SPST GPS Sowari** under Khyber Pakhtunkhwa revised leave rules 1981 read with District Govt; rules of Business 2001 amendment made vide SO(LG-I)3-196 EM/2005.as recommended by the Sub-Divisional Education Officer (M) Gagra

Note ;-

Necessary entry to this effect should be made in his S/Book accordingly

(IFTIKHAR UL GHANI)
DISTRICT EDUCATION OFFICER (M)
BUNER

Attested by

Endst;No. 3236-38 Dated 9/5 /2019.

Copy is forwarded for information to the;-

1. District Accounts Officer Buner at Daggar.
2. Sub-Divisional Education Officer (M) Gagra
3. Official Concerned.

DISTRICT EDUCATION OFFICER (M)
DISTRICT BUNER

Sher Zada

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Annexure "B"

(24)

OFFICE ORDER

[illegible]

[illegible] 05.10.2019 to 05.10.2019

[illegible] office order No 97 dated

[illegible] 2019

Attested by

IBZAR MUHAMMAD

District Education Officer

Buner

Endst No 212-15/__ Dated 7/3/2020

Better Copy Page (24)

~~Better copy of page 8~~

BETTER COPY

OFFICE ORDER

As approved by the competent authority Mr.Inayat Ullah SPST GPS Swari hereby adjusted at GPS Alagram on expiry of Leave w.e.f 05-05-2019 to 05-10-2019 by Sub Divisional Education Officer Male GagraBuner vide hise office order No.97 dated 09/10/2019

Attested

IBZAR MUHAMMAD

District Education Officer

Buner

Endst. No. 712-15 / Dated 7/3/2020

C.T.C

ASHRAF ALI
Buneri
Advocate High Court

25 A

Attested
by

ment of Khyber Pakhtunkhwa

Office of the District Education Officer, Male

BUNNER

26

File No: 2268

Show-cause Notice for Salary Deduction

Dated: 03/06/2021

I,Iftikharul Ghani DEO BUNNER MALE as Competent Authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 do herby serve upon you (Inayat Ullah, Senior PST,GPS ALAGRAM(EmisCode:24007)) this show cause as follows.

1.That as per IMU monitoring report you were found absent from duty on 03/06/2021 without prior 2.permission of the competent authority.

And that as per the material and other connected papers on record under Rule-5 (i) (a) and to dispense with the inquiry in accordance with Rule-7 of the aforementioned rules, I, the competent authority, am satisfied that you have committed acts/omissions specified in Rule-3 (d) i.e. "guilty of habitually absenting himself from duty without prior approval of leave".

3.Now,therefore, I as the Competent Authority have tentatively decided to deduct one-day salary in accordance with Rule-4 (a) (iii) and the Finance Department Notification No. So (FR)/FD/5-14/2014dated 16-12-2014.

4.You are, therefore, required to show cause as to why the aforementioned penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

5. If no reply to this show cause is received within 7 days of its delivery, it shall be presumed that you have no defense to put in and in that case an Ex-Parte decision shall be taken against you.

(IFTIKHARUL GHIANI)

DEO (MALE) BUNNER

Attested

Endst: Even No. & Date

Copy of the above is forwarded to the:-

i. Director, Elementary & Secondary Education Department, G T Road, Peshawar

ii. Deputy Commissioner concerned

iii. District Monitoring Officer concerned iv.Principal/Headmaster/Headmistress/DDEO/SDEO concerned for necessary action under intimation to this office within 7 days.

v. Inayat Ullah, Senior PST, GPS ALAGRAM(EmisCode:24007), BATARA, CHAGHARZI,BUNNER

vi. Master File

So DEO (MALE) BUNNER

By do.bunner-Warning Letter

Annexure "E"

(27)

OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) DISTRICT BUNER
PHONE & FAX NO. 0939-555110
EMAIL: edobuner@gmail.com

LEAVE SANCTION.

The Competent Authority is pleased to grant sanction of Extra Ordinary Leave (E.O.L) in r/o Mr. **Inayatullah SPST GPS Alagram** with effect from **01-03-2022 to 20-12-2022 (9 months & 20 days) without pay** as due and admissible to him under the Khyber Pakhtunkhwa Revised Leave Rules 1981, as recommended by the SDEO(M) Gagra vide his office Endst No.417 dated 21/01/2022.

Note:- 1.Necessary entry should be made in his Service Book accordingly.

(IFTIKHARUL GHANI)
DISTRICT EDUCATION OFFICER (M)
BUNER.

Endst; No 443-47 Dated 01/02/2022.

Copy is forwarded for information to the: -
1. District Accounts Officer Buner at Dagger
2. Education Monitoring Authority EMA Buner
3. SDEO(M) Gagra.
4. Official concerned.

Attested

DISTRICT EDUCATION OFFICER (M)
DISTRICT BUNER.
1/2/22

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Annexure "F" (28)

OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) DISTRICT BUNER
PHONE & FAX NO. 0939-510468
EMAIL: edobuner@gmail.com

KPESED

OFFICE ORDER.

Consequent upon the expiry of E.O. leave on 20/12/2022, the Competent Authority is pleased to adjust Mr. Inayatullah SPST at Govt: Primary School Gojjar Abad in the best interest of public service.

Note ;-

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

(IFTIKHR UL GHANI)
DISTRICT EDUCATION OFFICER (M)
BUNER.

Endst;No. 802-05 Dated 17/02 /2023.

Copy is forwarded for information to the;-

1. District Accounts Officer Buner at Daggar.
2. District Monitoring Officer Buner
3. Sub Divisional Education Officers concerned (M) Buner.
4. Official concerned.

DISTRICT EDUCATION OFFICER (M)
BUNER.

17/2/23

Attested

(29) (27)

Annexure "G"

بخدمت جناب SDEO (M) صاحب سوات ڈویژن جغرزئی ضلع بونیر

(18)

عنوان :- درخواست برائے تبادلہ از GPS الہ گرام تا GPS سواڑئی تحصیل گاگرہ

جناب عالی!

گزارش کی جاتی ہے کہ میں GPS الہ گرام تحصیل جغرزئی میں بحیثیت SPST اپنی ڈیوٹی سرانجام دے رہا ہوں۔ یکم مارچ 2022 سے 20 دسمبر 2022 تک E.O.L مجاز دفتر سے لی تھی۔ اب چونکہ 20 دسمبر کو میری چھٹی پوری ہو جائے گی اب میں جی پی ایس الہ گرام سے GPS سواڑئی گاگرہ کو تبادلہ کرنا چاہتا ہوں۔ کیونکہ الہ گرام میرے رہائش سے 28 کلومیٹر دور ہے اور آنے جانے میں مشکلات ہے۔ لہٰذا آپ صاحبان مہربانی کر کے میری درخواست پر ہمدردانہ غور فرما کر منظور کیا جائے۔

نوٹ :- جی پی ایس الہ گرام میں اکتوبر 2019 سے ڈیوٹی سرانجام دے رہا ہوں۔

العارض

عنایت اللہ

SPST

جی پی ایس الہ گرام ضلع بونیر

مورخہ 07/12/2022

The application is based on reality. Forwarded for N/A to the high ups.

7/12/2022

Head Teacher
GPS Alagram Buner

7/12/2022

SHERAF ALI
Buneri
Advocate High Court

To DEO (M) Buner
Sir Forwarded for kindly consideration please.

Attested

District Edu Officer
Female Buner

Recd by PA
To DEO (M) Buner

District Officer

OFFICE OF THE SUB DIVISIONAL EDUCATION (M) CHAGARZI DISTRICT BUNER

No. 126 / Dated: 13 / 02 /2023

To,

The District Education Office (M)
Buner.

Subject: **ADJUSTMENT OF MR. INAYAT ULLAH (SPST) GPS ALAGRAM.**

Memo:

Reference to the subject cited above, it is submitted for your kind information and further necessary action that Mr.Inayat Ullah (SPST) had taken EOL w.e.f 1-3-2022 to 20-12-2022 (9 Months and 20 Days). Now the leave of the official concerned has expired.

Therefore his adjustment may please be made at any school.

SUB DIVISIONAL EDUCATION
OFFICER (M) CHAGARZI BUNER

ADEO (EST.) Pry.

18 Sec wing Adjustment order.

14/2/23 Attested

Am

(31)

SHOW CAUSE NOTICE

I, Mr. Iftikhar Ul Ghani, District Education officer (M) Buner, as a Competent Authority, under the Khyber Pukhtunkhwa Government Servant (Efficiency & Discipline) Rules 2011, do hereby serve upon you, Mr. **Inayatullah SPST, under-adjustment at GPS Gujar Abad** tehsil Khadu Khel District Buner, this show cause notice as follows:-

1. That on expiry of your Extra Ordinary Leave (without pay) issued vide this office No.483-87 Dated 01.03.2022, you neither informed your concerned SDEO nor this office in order to adjust you against any vacant SPST post and remained absent w.e.f 21/12/2022 till date, however, reportedly you adjust yourself in a certain school without informing the SDEO and proper order/approval of the undersigned, thereby exercising the authority of the DEO, which is utter violation of rules and regulations.
2. That the SDEO concerned sent a letter to this office requesting therein to adjust you after expiry of your leave. In the light of the aforementioned letter you were adjusted at GPS Gujar Abad Tehsil Khadu Khel vide this office order No. 802-05 dated 17/2/2023, where you have not taken over charge as yet
3. That after your adjustment, you pressurize the undersigned to adjust you at a nearest station, which was not possible due to available vacancies, owing to which you started blackmailing and defaming the undersigned on social media, which is violation of the Conduct Rules 1987, sub-rules (21), (24), (25) and (34-A sub-rules (1)(2).
4. That you not only defame the undersigned and disseminate perversive comments/information through social media on shaky and flimsy grounds, reprimanding, tongue-lashing and condemning official business of the Government as well as the undersigned just to instigate and instigate teachers Fraternity and general public against this office, which is an utter violation of Conduct Rules 1987, sub-rules (21), (24), (25) and (34-A sub-rules (1)(2) of the rules ibid and E&D Rules 2011.
5. That you stigmatize, malign and slag off the character of certain officers of this Department including the undersigned without any proof by posting unauthorized, baseless information through various comments on various posts on facebook.
6. That you are guilty of continuously creating embarrassing situation for the Govt. as well as Elementary and Secondary Education Department by propagating falsification and misrepresentation of facts and figures.
7. That you are guilty of professional dishonesty, abetment, inefficiency and misconduct under Rule-3 (a) (b) of the Khyber Pukhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011 read with Conduct Rules 1987, sub-rules (21), (24), (25) and (34-A sub rules (1)(2) of the rules ibid.
8. That you have ceased to be efficient and are guilty of misconduct and liable to be proceeded under the rules for the charges given hereinabove.

2. In terms of Rule-5 (a) of the Khyber Pukhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, I, as a Competent Authority dispense with the inquiry and serve you with a showcause notice under Rule-7 of the ibid rules.

3. By reasons of the above, you appear to be guilty of inefficiency and misconduct under Rules 3 (a) and (b) defined in Rules 2 (I) (i), (ii) (iii) and (v) of the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, read with rules (21), (24), (25) and (34 A sub-rules (1)(2) of Conduct Rules 1987 and have rendered yourself liable to all or any of the penalties specified in Rule-4 of the Rules ibid.

4. As a result thereof, I, as the Competent Authority, have tentatively decided to proceed against you under the above mentioned rules. You are, therefore, required to show cause as to why one of the major/minor penalties specified in **Rule 4 of the Khyber Pukhtunkhwa Government Servants(Efficiency and Discipline) Rules 2011,** should not be imposed upon you and also intimate whether you desire to be heard in person. If no reply to this office is received within 07 days of its delivery, it shall be presumed that you have no defense to put in and in that case Ex-parte action will be taken against you, which may terminate in your **removal from service.**

(IFTIKHAR UL GHANI)
DISTRICT EDUCATION OFFICER (M)
BUNER

Endst: No. 873-77 Dated 20/2/2023.

Copy forwarded to:

1- The Director of Elementary and Secondary Education Khyber pukhtunKhwa, Peshawar.
2- SDEO (M) Khadu Khel and Chagharzi.
3- DMO, EMIA Buner.
4- The Official Concerned.
5- Master File

DISTRICT EDUCATION OFFICER (M)
BUNER 20/2/23

Attested by NP

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Annexure J

(32)

OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) DISTRICT BUNER
PHONE & FAX NO 0939-555110
EMAIL: edo[illegible]

NOTIFICATION.

1. **WHEREAS** Mr Inayatullah SPST GPS Ali [illegible] under adjustment at GPS Gujjar Ab[illegible] [illegible] extra ordinary leave 01/3/2022 to 20/12/2022 which was due to expire on 20/12/2022.
2. **AND WHEREAS**, after the expiry of his leave, he neither reported/submitted his arrival [illegible] office of the undersigned nor to the SDEO concerned for further adjustment.
3. **AND WHEREAS**, the SDEO Chagharzi vide his office letter No. 126 dated 13/02/2023 informed this office regarding the expiry of his EOL and requested his further adjustment.
4. **AND WHEREAS**, the DEO, as the Competent Authority, made an order of his adjustment at GPS Gujjar Abad vide this office Endst No. 802-05 dated 17/02/2023.
5. **AND WHEREAS**, he failed to comply with his adjustment order and did not take over c[illegible] duty at GPS Gujjar Abad and remained absent since then.
6. **AND WHEREAS**, the Competent Authority issued him show cause notice vide this office [illegible] No. 873-77 Dated 20/02/2023 under rule 7, dispensing with the inquiry for the reasons that the [illegible] compliance, misconduct and absence had sufficient valid and reliable evidence and did not need any fu[illegible] inquiry.
7. **AND WHEREAS**, he submitted reply to the showcause notice which was perused by the Competent Authority, however, his reply to the show cause notice was unsatisfactory and devoid of valid reasons and defens, on sound basis.
8. **AND WHEREAS**, the DEO, as the Competent Authority, called him for personal hearing vide this office Endst No. 1089 dated 03/[illegible]/2023.
9. **AND WHEREAS**, he appeared before Deputy DEO, as authorized by DEO to afford perso[illegible] hearing for to him, where he received his answers to the questions in black and white on 10/03/2023.
10. **AND WHEREAS**, his reply to the questions during personal hearing was also found unsa[illegible] [illegible] given
11. **AND WHEREAS**, keeping in view allegations in the showcause notice, his reply to th[illegible] misconduct and therein followed by affording personal hearing on dated 10-03-2023, all allegations of absen[illegible] inefficiency have been proved.
12. **NOW, THEREFORE**, in exercise of the powers conferred under rule 4(b)(i) of the Khy[illegible] Pakhtunkhwa Govt Servants (Efficiency & Discipline) Rules 2011, as amended vide Government of Khy[illegible] Pakhtunkhwa Establishment Department (Regulation Wing) No.SO(Policies)E&AD/2-6/2021 Pesh[illegible] dated the 31/12/2021, I, Mr. Iftikhar-ul-Ghani DEO(M) Buner as the Competent Authority, am please[illegible] [illegible] major penalty of **"Reduction to lower post and pay scale from SPST BPS 14 to PST BPS 1[illegible] maximum period specified in rule 4(b)(i)"** upon Mr. Inayatullah **SPST GPS Gujjar Abad.** The [illegible] period w.e.f 21/12/2022 to 31/12/2023 is treated as leave without pay.

In consequence of the above, since, as per sub section 3 of section 3 (proviso) of the Khy[illegible] Pakhtunkhwa (Appointment & Transfer of the Teachers, Lecturers Instructors and Doctors Regulatory Act 2011, PST, BPS 12 is a Union Council based post, therefore, he is hereby adjusted at **GPS Bishpur** [illegible] **Tehsil Gagra) which is union council of his domicile.**

Note: Necessary entry to this effect should be made in his Service Book accor[illegible]

(IFTIKHAR UL GHANI)
DISTRICT EDUCATION OFFICER (M)
DISTRICT BUNER

Endst No. [illegible] Dated [illegible]/5/2023

Copy is forwarded for information to the:

1. Director Elementary & Secondary Education Khyber Pakhtunkhwa
2. Deputy Commissioner Buner
3. District Monitoring Officer Buner.
4. District Accounts Office
5. SDEO(M) concerned.
6. Official concerned
7. Master File

DISTRICT EDUCATION OFFICER (M)
DISTRICT BUNER

Annexure "K"

(33)

OFFICE OF THE SUB DIVISIONAL EDUCATION (M) GAGRA DISTRICT BUNER

239

No 1157 / Dated: 14/06/2023

To

The District Education
Officer (M) Buner.

Subject: **NON-COMPLIANCE REPORT REGARDING MR. INAYAT ULLAH PST BPS-12 GPS BEISHPUR.**

Memo:-

Reference to the subject stated above it is brought into your kind knowledge that Mr. Inayat Ullah PST BPS-12 has been transferred and adjusted at GPS Beishpur vide DEO (M) Buner notification Endst: No. 2590-96, Dated 31/05/2023. During the surprise visit of ASDEO Circle Dewana Baba on 14/06/2023 to the said school, it was found out that the subject official has not taken over charge of his duties at GPS Beishpur and hence he is guilty of non-compliance of your orders within the stipulated time.

The case is hereby forwarded for further necessary action.

14-6-2023

SUB DIVISIONAL EDUCATION
OFFICE (M) GAGRA BUNER

Attested

16/06/23

ADEO (ESTB) Pay

16/6/23

Issue show cause notice under Rule 8.

16/6/23

Annexure "L"

(34)

ABSENCE NOTICE)

OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) DISTRICT BUNER
PHONE & FAX NO. 0939-555116
EMAIL: edobuner@gmail.com

No. 3046 Dated 26/6 /2023

To

Mr. Inayatullah PST GPS Beshpur
Village Takhta Band Tehsil Gagra Buner

Subject: - **ABSENCE FROM DUTY.**
Memo: -

In light of disciplinary proceedings against you under the Khyber Pakhtunkhwa Efficiency & Disciplinary rules 2011, you were penalized for Reduction to Lower Post and Pay Scale from SPST to PST and were adjusted at GPS Beshpur, but as reported by the SDEO (Male) Gagra Buner vide his office letter No.1157 dated 14-06-2023, you have still not taken over charge in the new duty station and have remained absent from school duty till date without any prior approval of the competent authority which is an act of sheer negligence and irregularity on your part.

You are therefore, directed to resume your duty within 15 days after the issuance of this letter, otherwise disciplinary action will be taken against you under (E & D) rules 2011, which may culminate in your removal from service.

26/6/23
DISTRICT EDUCATION OFFICER (M)
DISTRICT BUNER

Endst: No. 3047 dated. 26/6 /2023
Copy of the above is forwarded for information to: -
1. Sub-Divisional Education Officer(M) Gagra Buner

Attested

DISTRICT EDUCATION OFFICER (M)
DISTRICT BUNER

761

3046

For Insurance Notice see reverse

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RGL105799287

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Name and address of sender

Annexon (38)

240

OFFICE OF THE DISTRICT EDUCATION OFFICER
(MALE) DISTRICT BUNER
PHONE & FAX NO. 0939-555110
EMAIL: edobuner@gmail.com

No: 3385 Dated: 21/7 /2023

To

The Director Information,
Govt: of Khyber Pakhtunkhwa, Peshawar.

Subject: - **PUBLICATION OF ABSENCE NOTICE**

Memo: -

Enclosed please find herewith seven copies of absence notice in respect of Mr. Inayat Ullah PST, Govt: Primary School Beshpur District Buner for publication in TWO leading Daily Newspapers.

21/7/23
DISTRICT EDUCATION OFFICER
(MALE) BUNER

Endst: No. 3386-89 / Dated 21/7 /2023.

Copy forwarded for information to the:

1. PA to Director, (E & SE) Govt: of Khyber Pakhtunkhwa, Peshawar.
2. Deputy Commissioner Buner.
3. District Monitoring Officer Buner.
4. SDEO Gagra Buner.

Attested

DISTRICT EDUCATION OFFICER
(MALE) BUNER

Annexure-N11 (3)

(265)

روزنامہ آزاد

صوبائی دارالحکومت اسلام آباد اور پشاور سے بیک وقت شائع ہونے والا واحد روزنامہ

28 جولائی 2023ء 9 محرم الحرام 1445ھ 13 ساون 2070 بکرمی قیمت 20 روپے | شمارہ نمبر 205

سیاسی افراتفری کی وجہ سے

ان چیزوں کی خلاف ورزی

سری لنکا کو آئی ایم ایف اور 2

تیسرے روز عبداللہ شفیق

نمبر شمار	نام	ولدیت	عہدہ	تاریخ تقرری	تاریخ ترقی	تاریخ ریٹائرمنٹ
1	[illegible]	[illegible]	PST	GPS	14/06/2023	3046 28/06/2023

(P)1753/23

Annexure "O"

AAJ

3/8/2023

نوٹس غیر حاضری

ڈسٹرکٹ ایجوکیشن آفیسر (مردانہ) ضلع بونیر کے دائرہ اختیار میں آنے والے پرائمری مدارس (مردانہ) میں آپ کی درجہ ذیل بغیر کسی وجہ سے اپنی ڈیوٹی سے دی گئی تاریخ سے غیر حاضر ہے آپ کو غیر حاضری اشوکاز نوٹس گھر/اسکول کے پتہ پر بذریعہ رجسٹرڈ ڈاک ڈیوٹی پر حاضر ہونے کیلئے اطلاع دی جا چکی ہے لیکن آپ نے مذکورہ غیر حاضری/شوکاز نوٹس کا جواب دیا اور نہ ابھی تک اپنی ڈیوٹی پر حاضر ہوئے۔ دفتر ہذا بذریعہ اشتہار اطلاع دیتا ہے کہ اس اشتہار کی اشاعت کے پندرہ (15) یوم کے اندر اندر اپنی ڈیوٹی پر حاضر ہو کر اپنی غیر حاضری کی وجوہات بیان کریں بصورت دیگر آپ کے خلاف E&D رولز 2011ء کے تحت محکمانہ انضباطی کارروائی عمل میں لائی جائیگی جس میں آپ کی ملازمت سے برخاستگی بھی ہو سکتی ہے۔

نمبر شمار	نام	عہدہ	سکول	غیر حاضری کی تاریخ	غیر حاضری اشوکاز نوٹس نمبر تاریخ	رجسٹری نمبر تاریخ
1	عنایت اللہ	PST	GPS پیشپور	14/06/2023	3046 26/06/2023	RGL 105799287 27/06/2023

ڈسٹرکٹ ایجوکیشن آفیسر (مردانہ) ضلع بونیر

NFC 1753

Attested

Annexure P"

GOVERNMENT OF KHYBER PAKHTUNKHWA
OFFICE OF THE DISTRICT EDUCATION OFFICER
MALE BUNER

Phone & Fax No.0939-555110 Email: edobuner@gmail.com

267

NOTIFICATION.

1. **WHEREAS** after expiry of his leave, **Mr. Inayatullah SPST** was adjusted at GPS Gujar Abad vide this office Notification No. 802-05 dated 17/02/2023.

2. **AND WHEREAS** he neither took over charge nor reported to this office and remained absent since his adjustment.

3. **AND WHEREAS** he was proceeded for the charges of absence, misconduct and blatant use of social media to pressurize this office for undue favour.

4. **AND WHEREAS Mr. Inayatullah SPST** was proceeded against under E&D Rules 2011, and major penalty of "Reduction to lower post and pay scale" was imposed upon him vide this office Notification No.2590-96 dated 31/05/2023 consequently, he was adjust at GPS Bishpur , Union Council Rega tehsil Gagra which is union council of its domicile.

5. **WHEREAS Mr. Inayatullah PST GPS Bishpur** was reported by SDEO(M) Gagra vide his office letter No.1157 dated 14/06/2023 as absent from duty w.e.f 14/06/2023 without prior approval.

6. **AND WHEREAS** This office served him with an Absence notice on his home address vide this office letter No.3046 dated 26/06/2023, Regd; No. 105799287 dated 27/06/2023.

7. **AND WHEREAS** he neither resumed his duty nor reported to this office within stipulated period of time.

8. **AND WHEREAS** an absence notice was sent to the Director Information Govt; of Khyber Pakhtunkhwa Peshawar vide this office No.3385, dated 21/07/2023, regarding the publication of his absence in leading National Dailies.

9. **AND WHEREAS** as per rule 9 of the Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules 2011, notices were published in two leading Newspapers, i.e., the Daily Azadi Swat dated **28/07/2023,** & Daily AAJ Peshawar dated **03/08/2023**, directing him to resume his duty within 15 days of the publication of absence notice in the Newspapers, and also show cogent reasons of his absence but he failed to resume his duty and remained absent.

10. **NOW, THEREOF,** in exercise of the powers conferred under rule-9 of Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules 2011, I, **Mr.Iftikhar Ul Ghani DEO(M) Buner** as the Competent Authority, am pleased to impose Major penalty of "**Removal from Service**" with immediate effect **upon Mr.Inayatullah PST GPS Bishpur**. The intervening period w.e.f 01/06/2023 till date is treated as unauthorized absence.

Note: - Necessary entry to this effect should be made in his service Book accordingly.

Attested

(IFTIKHAR UL GHANI)
DISTRICT EDUCATION OFFICER (M)
BUNER

Endst; No **4011-17/** **Dated 21/08 /2023.**

Copy for information to the.

1. Director (E&SE) Khyber Pakhtunkhwa Peshawar.
2. Deputy Commissioner Buner.
3. Education Monitoring Authority EMA Buner.
4. Sub Divisional Education Officer (M) Concerned Buner.
5. District Accounts Officer Buner.
6. Official Concerned.

01/8/23

DISTRICT EDUCATION OFFICER (M)
BUNER

OFFICE OF THE DISTRICT EDUCATION OFFICER MALE DISTRICT BUNER

AUTHORITY LETTER

Mr. Ubaid Ur Rahman ADEO Litigation Office of the District Education Officer Elementary & Secondary Education Buner is hereby authorized to submit Para Wise Comments on behalf of the undersigned in connection with case Title Inayat Ullah Versus Govt; in the honorable court of service Tribunal Khyber Pakhtunkhwa, Peshawar.

DISTRICT EDUCATION OFFICER
MALE DISTRICT BUNER