


FORM OF ORDER SHEET

Court of _____

Appeal No. 993/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	18/07/2024	<p>The appeal of Mr. Muhammad Usman presented today by Syed Noman Ali Bukhari Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 22.07.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL, PESHAWAR.**

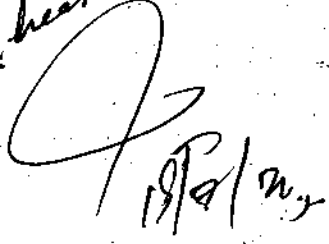
Service Appeal _____ /2024

Muhammad Usman

Versus

Education Department

**APPLICATION FOR FIXING THE ABOVE APPEAL
BEFORE THE PRINCIPAL BENCH PESHAWAR.**

*For Peshawar
hearing only.*

19/8/24

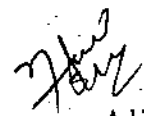
Respectfully Sheweth:

1. That the titled appeal has been filed however no date has been fixed.
2. That the case is pertaining to transfer/adjustment of the applicant and belongs to jurisdiction of camp Court Swat.
3. That the counsel is practicing in District Peshawar. The respondent also hail at Peshawar so it will be convenient for appellant to heard the subject case on principal seat at Peshawar.
4. That keeping in view the above facts and circumstances appeal/case may kindly be fixed before the principal bench at District Peshawar and the appeal may also be retained before the principal seat in the best interest of justice.
5. That there is no legal bar on acceptance of this application rather it is in the best interest of justice.

It is therefore, most humbly prayed that on acceptance of this application the above title case may kindly be fixed before the principal been as earlier as possible the best interest of justice.

Applicant/Appellant

Through :-


Syed Noman Ali Bukhari
Advocates High Court
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. 993 /2024

Muhammad Usman

V/S

Education Department

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APPELLANT
Muhammad Usman

THROUGH:

(SYED NOMANALI BUKHARI)

&

(UZMA SYED)

ADVOCATES HIGH COURT,
PESHAWAR

Date: 18-07-2024

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 993/2024

Muhammad Usman SST (Maths Physics)
Government High School Dapoor Dir Lower.

APPELLANT.

VERSUS

1. The Secretary Elementary and Secondary Education, Government of Khyber Pakhtunkhwa, civil secretariat, Peshawar.
2. The Director Elementary and Secondary Education Khyber Pakhtunkhwa, Peshawar.

(RESPONDENTS)

SERVICE APPEAL UNDER SECTION 4 OF THE KP SERVICE TRIBUNALS ACT, 1974, AGAINST THE CANCELATION ORDER DATED 23/04/2024 WHICH WAS PASSED IN UTTER VIOLATION OF POSTING TRANSFER POLICY AND AGAINST THE ORDER DATED 20/06/2024 COMMUNICATED TO THE APPELLANT ON 24/06/2024 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT AGAINST THE ORDER OF RESPONDENTS DATED 23.04.2024 WAS REJECTED WITHOUT SHOWING ANY REASON BY INCOMPETENT AUTHORITY.

PRAYER:

1. THAT ON ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 23/04/2024 AND 20.06.2024 COMMUNICATED THROUGH LETTER DATED 24/06/2024 MAY PLEASE BE SET ASIDE, BEING PASSED IN VIOLATION OF POSTING/TRANSFER POLICY. THE RESPONDENT DEPTT: MAY FURTHER PLEASE BE DIRECTED NOT TO TRANSFER THE APPELLANT IN VIOLATION OF POSTING/TRANSFER

POLICY AND APPELLANT MAY BE ALLOWED TO COMPLETE HIS NORMALS TENURE . ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

2

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant is serving as SST (Maths Physics) in the respondent department and work with full zeal and zest.
2. That the appellant was transferred from SST GHS Dapoor Dir lower to ASDEO Circle kumbar dir Lower vide order dated 21/06/2023. Thereafter, the appellant was transfer from ASDEO Circle kumbar dir Lower to SST (M/P) GHS Jawzo Dir Lower against the vacant post. **Copy of transfer orders is attached as annexure-A & B.**
3. That upon the approval of the competent authority, the transfer order dated 19.03.2024 of the appellant was issued wherein appellant was transferred from Government High School, Jawzo Dir Lower to Government High School Dapoor Dir Lower. The appellant attended and took over charge in school and start performing his duties. **Copy of transfer order and charge report is attached as annexure-C & D.**
4. That thereafter the respondents suddenly withdrew the transfer order dated 19.03.2024 without any reason and just cause and due to political interference, vide order dated 23.04.2024, **Copy of impugned cancelation order is attached as annexure-E.**
5. That the appellant feeling aggrieved from the impugned order filed departmental appeal on which was rejected vide order dated 20.06.2024 by incompetent authority and communicated through letter dated 24-06-2024 through non-speaking order without showing any reason in violation of General Clauses Act 24-A and supreme Court judgment cited as 1991 SCMR 2330. **(Copy of departmental appeal and rejection order is attached as Annexure- F & G).**

6. That the appellant having no other adequate remedy therefore constrained to file this appeal on the basis of following grounds amongst others.

GROUNDS:

- A. That the impugned order dated 23-04-2024 and 26-06-2024 communicated through letter dated 24-06-2024 are against the law, facts, norms of justice, politically motivated, violation of govt: circulars, therefore not tenable and liable to be set aside.
- B. That the impugned cancelation order dated 23/04/2024 was passed during period of notification dated 22/03/2024 whereby the Ban was imposed on the all kind of posting transfer in E&SE Deptt. Which is against the law and rules. **Copy of notification of ban is attached as annexure-H.**
- C. That cancelation order was passed after proper compliance of transfer order dated 19/03/2024 by the appellant without giving any prior notice and opportunity of hearing, which is against the norms of justice.
- D. That the appellant has been subjected to injustice and appellant has not been treaded in accordance with law.
- E. That a proper transfer order of the appellant has been withdrawn without any lawful reason, exigencies of service and without any just cause, which is violation of posting transfer policy.
- F. That after having taken charged at his school, the sudden withdrawal of his transfer order is against the policy and against the rule of legitimate expectation.
- G. That the respondents have transferred the appellant again and again before the impugned order and make the appellant rolling stone, hence the impugned withdrawal order of the transfer of appellant is the result of political ill-will and against the law and policy. **Copy of posting transfer policy is attached as annexure-I.**
- H. That the cancelation order was made on the basis of external influence and not as a routine transfer, so without showing

any cogent reasons and without giving personal hearing is against the law rules, posting transfer policy and principal of locus poenetentiae. (4)

- I. That the impugned order was passed in sheer negation of law rules, framed for the posting , in slipshod, perfunctory, arbitrary and clandestine manners thus liable to be set aside.
- J. That, relevant law, rules and regulations have blatantly bypassed/ violated by the respondents and the relevant law, rules and regulations have never been taken into consideration by the respondents and thus the notification so passed by the respondents have no legal sanctity in the eyes of law.
- K. That, the impugned order has neither been in the best interest of public service nor in exigencies of service, hence, not tenable and liable to be set aside.
- L. That, the impugned order is violative of clause-I, IV and XIII of the transfer/ posting policy of the Government of Khyber Pakhtunkhwa as the appellant has been transferred from his current post.
- M. That, the powers or jurisdiction are vested in authority to exercise it justly, fairly, honestly, judiciously and in accordance with law, rules and regulations but the respondents have transgressed upon their powers while dealing with the matter in hand.
- N. That the impugned order is not a rational one and based on personal liking and disliking.
- O. That the transfer of the appellant is also violation of circular based on the Anita Turab case dated 27.2.2013 in which it was clearly mentioned that when the ordinary tenure for a posting has been specified in the law or rules made thereunder, such tenure must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable.
- P. That no reasons have been mentioned in the impugned order which is the violation of Clause-24-A of the General Clauses Act 1897.

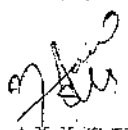
- (5)
- Q. That this Hon'ble Tribunal Already Accepted the Same Nature Appeal Miskeen Vs irrigation deptt. So the appellant may also be treated at par and the same relief may also be given to the appellant. **Copy of judgment is attached as annexure-J.**
- R. That according to posting transfer policy, normal tenure for posting is 2 years, but the appellant transferred order was cancelled just after 34 days, which is total violation of Govt: posting transfer policy. Thus the impugned order is liable to be set-aside on this score alone
- S. That the impugned order is not based on public interest nor any exigencies but rather to adjusted blue eyed person.
- T. That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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


APPELLANT

Muhammad Usman

THROUGH:


(SYED NOMAN ALI BUKHARI)

&


(UZMA SYED)

ADVOCATES, HIGH COURT,
PESHAWAR

Date: ___/07/2024

CERTIFICATE:


6

It is certified that no other service appeal earlier has been filed between the present parties in this Tribunal, except the present one.


DEPONENT

LIST OF BOOKS:

1. Constitution of the Islamic Republic of Pakistan, 1973.
2. The ESTA CODE
3. Any other case law as per need.


(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT

7

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

Appeal No. _____/2024

Muhammad Usman

V/S

Education Department

.....

**APPLICATION FOR SUSPENDING
THE OPERATION OF ORDER DATED
23-04-2024 AND 20.06.2024
COMMUNICATED THROUGH
LETTER DATED 24-06-2024 TILL THE
DISPOSAL OF MAIN APPEAL.**

RESPECTFULLY SHEWETH:

1. That the appellant has filed an Appeal along-with application in which no date has been fixed so far.
2. That the appellant has good prima facie case and all the ingredients of stay is in favour of appellant.
3. That the grounds of main appeal may also be considered as integral part of this application.
4. That the impugned order has passed on favoritism and nepotism and has been passed in-violation of Posting, Transfer Policy.

5.

That if the order is not suspended and charge will take from the appellant. It badly effect the right of appellant.

It is, therefore, most humbly prayed that the order dated 23/04/2024 and 20/06/2024 communicated through letter dated 24-06-2024 may please be suspended till the disposal of main appeal. Any other remedy, which this august tribunal deems fit that may also be awarded in favour of appellant.

U. Syed
APPELLANT
Muhammad Usman

THROUGH:

Noman Ali Bukhari
(SYED NOMAN ALI BUKHARI)

&

Uzma Syed
(UZMA SYED)

ADVOCATES, HIGH COURT,
PESHAWAR

5.

That if the order is not suspended and charge will take from the appellant. It badly effect the right of appellant.

It is, therefore, most humbly prayed that the order dated 23/04/2024 and 20/06/2024 communicated through letter dated 24-06-2024 may please be suspended till the disposal of main appeal. Any other remedy, which this august tribunal deems fit that may also be awarded in favour of appellant.

Muhammad Usman
APPELANT
Muhammad Usman

THROUGH:

Syed Noman Ali Bukhari
(SYED NOMAN ALI BUKHARI)
&
Uzma Syed
(UZMA SYED)
ADVOCATES, HIGH COURT,
PESHAWAR

(10)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.**

Appeal No. _____ /2024

Muhammad Usman

V/S

Education Department

AFFIDAVIT:

I, Muhammad Usman (Appellant) It is affirmed and declared on oath that the contents of appeal and Application are true and correct to the best of my knowledge and belief and nothing has been concealed from Hon'able Tribunal


DEPONENT,



A (15) (H) "F"

**DIRECTORATE OF ELEMENTARY & SECONDARY
EDUCATION KHYBER PAKHTUNKHWA PESHAWAR**
Phone: 091-9225344
Email: ddadmn.ese@gmail.com

NOTIFICATION:

Consequent upon approval of the Competent Authority (Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar), the transfer/posting of the following officers/officials are hereby ordered in their own pay & scales with immediate effect in the best interest of public service.

S#	Name & Designation	From	To (posted as)	Remarks
1	Mr. Emal Khan ASDEO (MC) BPS-16	ASDEO Lal Qilla Dir Lower	ADEO (P&D) at DEO (M) Dir Lower	AVP
2	Muhammad Ayatullah ASDEO (TC) BPS-16	ASDEO Circle Bishgram Dir Lower	ASDEO Lal Qilla Dir Lower	Vice S.No.1
3	Muhammad Bashir SST (B/C) BPS-16	SST GHS Jawzo Dir Lower	ASDEO Circle Kumber Dir Lower	Vice S.No.4
4	Muhammad Usman SST (M/P) BPS-16	ASDEO Circle Kumber Dir Lower	SST (M/P) GHS Jawzo Dir Lower	AVP

TERMS & CONDITIONS:

1. Posting/Adjustment of Teaching Cadre Officer shall be considered as stop-gap arrangement till the arrival of Management Cadre officers.
2. The order of the above named SSTs will be effective subject to the condition that they will give an undertaking/affidavit on legal paper/stamp paper to DEO (M) Dir Lower to the effect, that they will not claim seniority of Management Cadre.
3. Charge Report should be submitted to all concerned.
4. No TA/DA is allowed.
5. The terms & conditions mentioned in their appointment order as SST Teaching Cadre will remain intact.

DIRECTOR
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

Endst: No. 6958-62 F.No.19/ADEOs/Transfer/Dir Lower

Dated. 06/03/2024

Copy forwarded to the:

1. District Education Officer (M) Dir Lower.
2. District Accounts Officer Dir Lower
3. Officers Concerned.
4. PA to Director E&SE KPK Peshawar
5. Master Copy

Assistant Director (Estab M-D)
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar



B (11) (D)

GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone No. 091-9210626

Dated: 21st June, 2023

NOTIFICATION

NO.SO(MC)E&SED/4-16/2023/Posting/Transfer/ASDEO: The following postings/transfers are hereby ordered with immediate effect, in the best public interest: -

S#	Name & Designation	From	To	Remarks
1.	Muhammad Ayatullah TC BS-16	ASDEO Circle Kumbar Dir Lower	Services placed at the disposal of DEO (Male) Dir Lower	
2.	Muhammad Usman TC BS-16	SST GHS Dapoor Dir Lower	ASDEO Circle Kumbar Dir Lower	V.S.No.1

2. No TA/DA is allowed.

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

Endst: of even No.& date:

Copy forwarded for information to the: -

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
3. Director EMIS, E&SE Department with the request to upload the same on the official website of the department.
4. District Education Officer (Male) Concerned.
5. District Accounts Officers Concerned.
6. PS to Advisor to Chief Minister on E&SE Khyber Pakhtunkhwa.
7. PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.

111/700
21.6.2023
IMRAN ZAMAN

SECTION OFFICER (Management Cadre)



C 12 (8) A

**DIRECTORATE OF ELEMENTARY & SECONDARY
EDUCATION KHYBER PAKHTUNKHWA PESHAWAR**

Phone: 091-9225344

Email: ddadm.ese@gmail.com

NOTIFICATION:

Consequent upon approval of the Competent Authority (Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar), the transfer/posting of the following officers/officials are hereby ordered in their own pay & scales with immediate effect in the best interest of public service.

S#	Name & Designation	From	To (posted as)	Remarks
1	Mr. Islam Gul SST (M/P)	GHS Dapoor	GHS Osakai	AVP
2	Muhammad Usman SST	SST (M/P) GHS Jawzo Dir Lower	GHS Dapoor	Vice S.No.1

TERMS & CONDITIONS:

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

DIRECTOR

Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

Endst: No. 1519-22 F.No.19/ADEOs/Transfer/Dir Lower

Dated. 19-3-2024

Copy forwarded to the:

1. District Education Officer (M) Dir Lower.
2. District Accounts Officer Dir Lower.
3. Officers Concerned.
4. PA to Director E&SE KPK Peshawar
5. Master Copy

Assistant Director (Estab M-I)
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

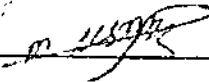
Dir Lower Transfer order

D - (13)
(16)

CHARGE REPORT

I Mr. Muhammad Usman s/o Ghazi Khan took over charge of my duties as SST (M/P) at GHS Dapoor Dir Lower w.e.f 20/03/2024 (F.N) consequent upon the approval of the competent authority (Director E&SE KPK vide Endstt; No: 1519-22 dated: 19/03/2021. S.No: 2.

Muhammad Usman S/O Ghazi Khan



Jo 500 Dated 20/03/2024


Head Master GHS Dapoor Dir (L)

Signature: MASTER

Seal: _____

Copy to:-

1. The District Education Officer (M) Dir Lower.
2. The District Account Officer Dir Lower at Timergara.
3. Teacher concerned.
4. The School Concerned.



DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION

KHYBER PAKHTUNKHWA PESHAWAR

Phone: 091-9225344

Email: establishment@kpe.com

OFFICE ORDER:

Consequent upon approval of the Competent Authority (Director of Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar), the order issued vide this Directorate bearing Notification Endst. No. 1519-22 dated 19-03-2024 in respect of the following SSTs is hereby recalled/withdrawn from the date of its issuance in the best interest of public service.

1. Mr. Islam Gul SST (M/P) BPS-16
2. Muhammad Usman SST (M/P) BPS-16

DIRECTOR

Elementary & Secondary Education
Khyber Pakhtunkhwa Peshawar

Endst. No. 993-96 /H.No.19/ADEOs/Transfer/Dir Lower Dated 23-4-2024

Copy of the above is to the:-

1. District Education Officer (M) Dir Lower
2. District Accounts Officer Dir Lower
3. Teachers/Officers concerned
4. PA to Director (E&SE) Khyber Pakhtunkhwa, Peshawar
5. Master File

Assistant Director (Estab-M1)
Elementary & Secondary Education
Khyber-Pakhtunkhwa Peshawar

The Secretary,
Elementary & Secondary Education,
Khybe Pakhtunkhwa, Peshawar.

F (15) (18)

Subject:- DEPARTMENTAL APPEAL AGAINST THE ORDER DATED 23/04/2024, COMMUNICATED ON 29/05/2024 THROUGH HEADMASTER

Respected Sir,

1. That I am the employee of your department, and since appointment I am working with zeal and zest.
2. That the respected Director of Peshawar has transferred me from Jawzo (GHS), Lower Dir to Dapoor, on 19/03/2024. (Copy attached)
3. That on 23/04/2024, the above mentioned order was withdrawn by the Director. (Copy attached)
4. That the withdrawal order was communicated to the appellant on 29/05/2024, through principle of GHS, Dapoor, on Whatsapp.

So (P/M)

- Kindly process and osta for report of Dir: ESS-14/26 and put up on file for appropriate orders of w/ secretary*
5. That the order of withdrawal is based on political basis, interference, and the appellant has not completed his normal tenure on the said post.
 6. That tenure of employee must be respected.
 7. That the said school is about 130 Km away from residence of the appellant.
- It is, therefore, respectfully requested that withdrawal order dated 23/04/2024 may kindly be set aside.

30/5/24

Dated:- 30/05/2024

Muhammad Usman
Muhammad Usman
S.S.T, P/M
G.H.S, Dapoor,
Cell No. 0308-5660077

2297
25/5



GOVERNMENT OF KHYBER PAKHTUNKHWA

ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT

CIVIL SECRETARIAT PESHAWAR

(Phone No.091-9223587 Email: primarymalesection2024@gmail.com)

159

No.SO (PF)/E&SED/2-1/Transfer-Posting/M.Usman-Islam Gul/SST/Dir lower/2024
Peshawar Dated 13th June, 2024

To

The Director,
Elementary & Secondary Education,
Khyber Pakhtunkhwa.

Subject: - **DEPARTMENTAL APPEAL AGAINST THE ORDER DATED 23-04-2024**

I am directed to refer to the subject noted above and to enclose here with a copy of self-explanatory applications in respect of Muhammad Usman, and Mr. Islam Gul, SST (M/P) BPS-16 and to state that look into the matter and resolve the grievances of the applicants as per Rule/Policy, under intimation to this department, please.

Encl as above.

Rizwan 13/06/24
SECTION OFFICER (PRIMARY MALE)

Copy forwarded to the:

1. PS to Secretary, E&SE Department Khyber Pakhtunkhwa.

Rizwan 13/06/24
SECTION OFFICER (PRIMARY MALE)



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT
CIVIL SECRETARIAT PESHAWAR
(Phone No.091-9223587)

5 16

No.SO (Primary-M)/E&SED/5-1/G. Misc/Mr. M. Usman & Islam Gul/SST/Dir Lower/2024
Dated Peshawar 24th June, 2024

To,

1. Mr. Muhammad Usman SST (M/P)
GHS Dapoor Dir Lower.
2. Mr. Islam Gul SST (M/P)
GHS Osakai Dir Lower.

Subject: - DEPARTMENTAL APPEAL AGAINST THE ORDER DATED 23-04-2024.

I am directed to refer to the subject noted above and to enclose herewith a copy of letter No. 281/F.No.19/ADEO (M)/Transfer/Dir Lower dated 20-06-2024 received from Directorate of E&SE Peshawar being Competent Authority has regretted your appeal.

(Signature)
(REHMAN GUL)

SECTION OFFICER (PRIMARY MALE)

Endst: of even No. & Date:-

Copy forwarded to the:-

1. Director E&SE Khyber Pakhtunkhwa, Peshawar w/r to his letter cited above.
2. PS to Secretary, E&SE Department Khyber Pakhtunkhwa.

SECTION OFFICER (PRIMARY MALE)



No 281

KHYBER PAKHTUNKHWA PESHAWAR.

/F. No.19/ADEO (M)/Transfer/Dir Lower Dated 20/06/2024

Phone: 091-9225344

Email: estabshmentmalet@gmail.com

(16)

To

The Section Officer (Primary-M),
Elementary & Secondary Education Department,
Govt. of Khyber Pakhtunkhwa Peshawar.

(17)

"15"

Subject: - **APPLICATION FOR RE-INSTATEMENT**

Sir,

I am directed to refer to the letters No. SO (Primary-M)/E&SED/ 2-1/Transfer-Posting/M.Usman & Islam Gul/Dir Lower dated 03-06-2024 and 05-06-2024 on the subject cited above and to state that the Competent Authority (Director Elementary & Secondary Education Khyber Pakhtunkhwa, Peshawar), has regretted the request in respect of the following teachers:

- 1- Muhammad Usman SST (M/P) GHS Dapoor Dir Lower.
- 2- Islam Gul SST (M/P) GHS Osakai Dir Lower.

(Signature) 14/6/2024
Assistant Director (Estab: M-1)
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar

Endst: No. _____

Copy of the above is to:-

1. PA to Director Local Directorate.
2. Master File

Assistant Director (Estab: M-1)
Elementary & Secondary Education
Khyber Pakhtunkhwa, Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION
DEPARTMENT

Block-"A" Opposite MPA's Hostel, Civil Secretariat Peshawar
Phone No. 091-9223533 Email: sschoolmale@gmail.com



Peshawar Dated 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.

(NAVEED ULLAH SHAH)
DEPUTY SECRETARY (ESTABLISHMENT)

*Liaqat Ali
Supalli
Mardan*

I *(101)*



**GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)**

POSTING/TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT

- i) All the posting/transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants
- ii) All Government servants are prohibited to exert political, Administrative or any other pressures upon the posting/transfer authorities for seeking posing/transfers of their choice and against the public interest.
- iii) All contract Government employees appointed against specific posts, can not be posted against any other post.
- iv) ¹Existing tenure of posting/transfer of three (03) years for settled areas and two (02) years for unattractive/hard areas shall be reduced to two (02) years for settled areas, 01½ years for unattractive areas and one year for hard areas. *(See 206 as retained)*
- v) ²{ } *2 years tenure retained vide P-06 for un-attractive/hard areas*
- vi) ³While making posting/transfers of officers/officials up to BS-17 from settled areas to FATA and vice versa approval of the Chief Secretary, Khyber PakhtunKhwa needs to be obtained. Save Tehsildars/Naib Tehsildars within a division in respect of whom the concerned Commissioner will exercise the same power. Whereas, in case of posting/transfer of officers in BS-18 and above, from settled areas to FATA and vice versa, specific approval of the Governor, Khyber PakhtunKhwa shall be obtained.

Provided that the power to transfer Political Tehsildars and Political Naib Tehsildars within FATA between different divisions shall rest in Additional Chief Secretary FATA.
- vi (a)⁴ All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for atleast eighteen months in each grade. This should start from senior most scales/grades downwards in each scale/grade of each cadre.
- vii) Officers may be posted on executive/administrative posts in the Districts of their domicile except District Coordination Officers (D.C.Os) and DPOs/Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where the Police Station (Thaana) of his area/residence is situated.

¹ Circular letter No. SOR-VI/E&AD/I-7/2008/Vol-VII dated, the 11th September, 2009
² Para-I(v) regarding months of March and July for posting/transfer and authorities for relaxation of ban deleted vide letter No. SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-5-2008. Consequently authorities competent under the Khyber PakhtunKhwa Government Rules of Business, 1985, District Government Rules of Business 2001, Posting/Transfer Policy and other rules for the time being in force, allowed to make Posting/Transfer subject to observance of the policy and rules.
³ Para-VI added vide circular letter No. SOR-VI/E&AD/I-1/2010/Vol-VIII dated 20th March, 2010.
⁴ Sub para-VI (a) added vide circular letter No. SOR-VI/E&AD/I-4/2008 dated 22nd October, 2008.

- viii) No posting/transfers of the officer's/officials on detailment basis shall be made.
- ix) Regarding the posting of husband/wife, both in Provincial services, efforts where possible would be made to post such persons at one station subject to the public interest.
- x) All the posting/transferring authorities may facilitate the posting/transfer of the unmarried female government Servants at the station of the residence of their parents.
- xi) Officers/officials except DCOs and DPOs/SPs who are due to retire within one year may be posted on their option on posts in the Districts of their domicile and be allowed to serve there till the retirement.
- ¹DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales;
- xii) In terms of Rule-17(1) and (2) read with Schedule-III of the Khyber PakhtunKhwa Government Rules of Business 1985, transfer of officers shown in column 1 of the following table shall be made by the authorities shown against each officer in column 2 thereof:

Outside the Secretariat		
1.	Officers of the all Pakistan Unified Group i.e. DMG, PSP including Provincial Police Officers in BPS-18 and above.	Chief Secretary in consultation with Establishment Department and Department concerned with the approval of the Chief Minister.
2.	Other officers in BPS-17 and above to be posted against scheduled posts, or posts normally held by the APUG, PCS(EG) and PCS(SG).	-do-
3.	Heads of Attached Departments and other Officers in B-19 & above in all the Departments.	-do-
In the Secretariat		
1.	Secretaries	Chief Secretary with the approval of the Chief Minister.
2.	Other Officers of and above the rank of Section Officers: a) Within the Same Department b) Within the Secretariat from one Department to another.	Secretary of the Department concerned. Chief secretary/Secretary Establishment.
3.	Officials up to the rank of Superintendent: a) Within the same Department.	Secretary of the Department concerned.

¹ Added vide Urdu circular letter No: SOR-VI (E&AD)/I-4/2005, dated 9-9-2005.

	b) To and from an Attached Department c) Within the Secretariat from one Department to another	Secretary of the Department in consultation with Head of Attached Department concerned. Secretary (Establishment)
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xiii) While considering posting/transfer proposals all the concerned authorities shall keep in mind the following:

- a) To ensure the posting of proper persons on proper posts, the Performance Evaluation Report/annual confidential reports, past and present record of service, performance on post held presently and in the past and general reputation with focus on the integrity of the concerned officers/officials be considered.
- b) ✓ Tenure on present post shall also be taken into consideration and the posting/transfers shall be in the best public interest.

xiv) Government servants including District Govt. employees feeling aggrieved due to the orders of posting/transfer authorities may seek remedy from the next higher authority / the appointing authority as the case may be through an appeal to be submitted within seven days of the receipt of such orders. Such appeal shall be disposed of within fifteen days. The option of appeal against posting/ transfer orders could be exercised only in the following cases.

- i) ✓ Pre-mature posing/transfer or posting transfer in violation of the provisions of this policy.
- ii) Serious and grave personal (humanitarian) grounds.

2. To streamline the postings/transfers in the District Government and to remove any irritant/confusions in this regard the provision of Rule 25 of the North West Frontier Province District Government Rules of Business 2001 read with schedule - IV thereof is referred. As per schedule-IV the posting/transferring authorities for the officers/officials shown against each are as under:-

S. No.	Officers	Authority
1.	Posting of District Coordination Officer and Executive District Officer in a District.	Provincial Government.
2.	Posting of District Police Officer.	Provincial Government
3.	Other Officers in BPS-17 and above posted in the District.	Provincial Government
4.	Official in BPS-16 and below	Executive District Officer in consultation with District Coordination Officer.

3. As per Rule 25(2) of the Rules mentioned above the District Coordination Department shall consult the Government if it is proposed to:

- a) Transfer the holder of a tenure post before the completion of his tenure or extend the period of his tenure.
- b) Require an officer to hold charge of more than one post for a period exceeding two months.

4. I am further directed to request that the above noted policy may be strictly observed /implemented.

Updated up to April, 2010.

All concerned are requested to ensure that tenures of the concerned officers/officials are invariably mentioned in summaries submitted to the Competent Authorities for Posting/Transfer.

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{Authority: Letter No. SOR-VI/E&AD/I-4/2003 dated 24-6-2003.

It has been decided by the Provincial Government that posting/transfer orders of all the officers up to BS-19 except Heads of Attached Departments irrespective of grades will be notified by the concerned Administrative Departments with prior approval of the Competent Authority obtained on the Summary. The Notifications/orders should be issued as per specimen given below for guidance.

All posting/transfer orders of BS-20 and above and Heads of Attached Departments (HAD) shall be issued by the Establishment Department and the Administrative Departments shall send approved Summaries to E&A Department for issuance of Notifications.

SPECIMEN NOTIFICATION:

GOVERNMENT OF KHYBER PAKHTUNKHWA
NAME OF ADMINISTRATIVE
DEPARTMENT

Dated Peshawar, _____

NOTIFICATION

NO. The Competent Authority is pleased to order the transfer of Mr. _____ Department and to post him as _____ in the interest of public service, with immediate effect.

CHIEF SECRETARY
GOVERNMENT OF KHYBER PAKHTUNKHWA

Endst. No. and date even.

Copy forwarded

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(NAME)
SECTION OFFICER
Administrative Department

{Authority: Letter No. SO (E-I) E&AD/9-12/2006 dated 22-12-2006}

The competent authority has been pleased to direct that Para 1(v) of the Posting/Transfer Policy contained in this Department letter No:SOR-I (E&AD) 1-1/85 Vol-II, dated 15-2-2003 shall stand deleted, with immediate effect, consequently allowing the authorities, competent under the Khyber PakhtunKhwa Government Rules of Business, 1985 and the District Government Rules of Business, 2001 or any other rules for the time being in force, to make posting/transfers of Government servants, any time during the year, in genuinely deserving and necessary cases, in public interest.

subject to strict observance of all other provisions of posting/transfer policy contained and notified vide circular letter under reference. Hence there will be no ban on posting/transfer of Government Servants in any part of the year while carrying out postings/transfers of Government Servants.

✓ The authorities concerned will ensure that no injustice whatsoever is caused to any civil servant, public work is not suffered and service delivery is improved.

✓ I am therefore directed to request that the provisions of posting/transfer policy, as amended to the extent above, may kindly be followed in letter and spirit in future so as to keep good governance standard in this regard.

{Authority: Letter No: SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-6-2008.

According to the policy of the provincial Government, maximum tenure on a post is three years. Contrary to the Policy, Store Keepers, Cashiers, Accountants and other ministerial staff remains posted in their particular field for long time; which may result in misuse of this position, due to which not only public exchequer may sustain loss but general public also suffers. The Provincial Government has taken serious notice of this situation & decided that all Administrative Secretaries and DCOs may submit a certificate within one month to the effect that above mentioned officials, having completed three years on their posts, have been adjusted on posts other than those they held previously.

{Authority: Urdu circular No: SOR-VI (E&AD)/05 dated 28th Oct, 2005.

The Chief Minister Khyber PakhtunKhwā has directed that:-

- i) Submission of summary would not be required in case of mutual transfer.
- ii) ✓ Posting/transfer shall be made according to the policy;
- iii) Government Servants shall avoid direct submission of applications to the Chief Minister;
- iv) In genuinely deserving case, they should approach the Administrative Secretaries who could process the case according to policy;
- v) In case of direct submission of application to the Chief Minister Secretariat for Posting/ Transfer, the concerned govt servants shall be proceeded against under the prevalent rules and regulations.

{Authority: Urdu circular No: SOR-VI/E&AD/1-4/2003, dated 8-6-2004 & Urdu Letter No: SOR-VI/E&AD/Misc: /2005, dated 3-1-2006.}

It has been decided with the approval of the competent authority that:-

- i) Mutual transfer would be allowed if both the concerned employees agree; except the Government Servants holding Administrative posts;
- ii) Khyber PakhtunKhwā Government Rules of Business 1985 shall be observed while issuing posting/transfer orders.

{Authority: - Urdu circular letter No: SOR (E&AD)/1-4/2005, dated 9-9-2005}.

The competent authority has decide that in order to maintain discipline, enhance performance of the departments and ensure optimum service delivery to the masses, the approved /prevalent policy of the posting/transfer shall be strictly followed. Government Servants violating the policy and the Khyber PakhtunKhwā Govt Servants (Conduct) Rules 1987 shall be proceeded against under the Khyber PakhtunKhwā Removal from Service (Special Powers) Ordinance 2000. As required under the Khyber PakhtunKhwā Govt Rules of Business 1985, the Administrative Secretaries shall ensure compliance with the policy and defaulting offices/officials be taken to task & entries to this effect

shall be made in their PERs/ACRs. In case subordinate officers are working on sites or proceeding for the purpose of inspection, they shall submit inspection Report to their Administrative Secretaries. Administrative Secretaries shall ensure submission of such reports.

{Authority: - Urdu circular No: SOR-VI (E&AD)/1-4/06, dated, 29-6-2007}.

⁶In continuation of this Department circular letter No.SOR-VI/E&AD/1-4/2008/Vol-VII dated 11th September, 2009, I am directed to refer to the subject and to say that the Provincial Cabinet in its meeting held on 30th March, 2010 inter-alia approved the following for the purpose of Posting/Transfer Policy:-

Unattractive/Hard Areas

1. ✓ The distinction between unattractive/hard areas should be done away with and both should be labeled as Unattractive areas. ✓
2. Existing list of FATA areas be retained.
3. The following areas were recommended/approved to constitute unattractive areas in NWFP:-

- a. Kohistan District.
- b. Tank District.
- c. Chitral District.
- d. Batgram District.
- e. Shangla District. ✓
- f. Hangu District.
- g. PATA areas of Mansehra (Kala Dhaka)

1) Tenure for settled area 03 years
2) Unattractive area is 02 years
(P-I)

Tenure of posting.

- i. ✓ The erstwhile normal tenure of 2 years be retained. ✓
- ii. Existing tenure for unattractive areas be retained. However, in case of married civil servants, transfer should be made just at the beginning of school session and tenure should be one year instead of 1.5 year, so that academic disruptions are avoided.
- iii. At the time of entry in service, all civil servants be asked to give 4 options from unattractive areas.
- iv. After a stint of service in unattractive area, employees may be offered option to serve in district of choice.

⁷PLACEMENT POLICY.

In order to utilize the expertise of the officers who have received foreign training in various fields, the provincial Government has decided to adopt the Placement Policy, approved by the Prime Minister of Pakistan, and make it a part of its Posting/Transfer Policy. Placement Policy is as follows:-

- i) All placements would be made on the basis of merit and keeping in view the needs of the organization.
- ii) The first priority in placement must go the parent organization of the participant from where the individual had applied. This will be in

⁶ No. SOR-VI/E&AD/1-4/2010/Vol-VIII Dated Peshawar, the. 10th April, 2010
⁷ Placement Policy has been made part of the posting/transfer policy vide Urdu circular No.SOR-VI(E&AD)1-4/06, dt 9-2-2007

J (24) For AP/Be/Sect

Sr. No. Date of order/proceedings

Order or other proceedings with signature of Judge or Magistrate

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. 66/2018

Date of Institution ... 16.01.2018

Date of Decision ... 04.04.2018

Muhammad Miskeen, Head Clerk, (BPS-16) Hazara Irrigation Division, Abbottabad.

APPELLANT

Handwritten signature/initials

- 1. The Secretary to Government of Khyber Pakhtunkhwa Irrigation Department, Peshawar.
- 2. The Chief Engineer (SOUTH) Irrigation Department Khyber Pakhtunkhwa Peshawar.
- 3. Muhammad Hamayun Head Clerk, Swabi Irrigation Division No.2 Swabi.

RESPONDENTS

JUDGMENT

MUHAMMAD HAMID MUGHAL, MEMBER:

04.04.2018

Learned Counsel for the appellant present. Learned Deputy

District Attorney on behalf of official respondents present.

Learned Counsel for private respondent No. 3 present.

2. The appellant has filed the present appeal u/s 4 Khyber Pakhtunkhwa Service Tribunal Act, 1974 against order dated 13.12.2017 whereby transfer/posting order dated 02.11.2017 regarding transfer of appellant filed

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Swabi Irrigation Division No.2 Swabi to Hazara Irrigation Division Abbottabad was cancelled. The departmental appeal of the appellant could not prove successful. Hence the present service appeal.

3. Learned counsel for the appellant argued that the appellant was stationed at Swabi Irrigation Division since year 2014 while respondent No.5 was stationed at Hazara Irrigation Division Abbottabad since year 2014; that by order dated 02.11.2017 the appellant was transferred to Hazara Irrigation Division Abbottabad while respondent No.3 was transferred to Swabi Irrigation Division Swabi, however just after one month of the issuance of transfer order, the respondent department cancelled the same vide impugned order dated 13.12.2017 on the basis of political influence and in violation of transfer/promotion policy. Learned counsel for the appellant vehemently stressed that the impugned order is liable to be set aside.

4. As against that learned counsel for private respondent argued that the appellant was promoted as Head Clerk by order dated 07.11.2016 and was still on probation when the transfer order dated 02.11.2017 was issued hence the

Lawyer

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was rightly cancelled by the respondent department. Further argued that after promotion to the post of Head Clerk on regular basis vide order dated 07.11.2016 the appellant has not yet completed his normal tenure at Swabi Irrigation Division No.2 Swabi as such the impugned order is not open to any exception.

5. Learned DDA adopted the arguments of Learned counsel for private respondent and relied upon the written reply/para wise comments of the official respondents.

6. Arguments heard. File perused.

7. It is not disputed that the appellant was serving at Swabi Irrigation Division No.2 Swabi and respondent No.3 was serving at Hazara Irrigation Division Abbottabad since year 2014 and vide order dated 02.11.2017 the appellant was transferred from Swabi to Abbottabad while respondent No.3 was transferred from Abbottabad to Swabi. However after one month of issuance of transfer order, the same was cancelled by respondent department without assigning any reason in the impugned order dated 13.12.2017.

8. Learned DDA remained unable to demonstrate

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valid reason or exigencies of service due to which the transfer order dated 02.11.2017 was cancelled just after one month of its issuance.

9. There is no dispute that the respondent No.3 has already served for a period more than his normal tenure in Abbottabad before his transfer to Swabi Irrigation Division No.2 Swabi vide order 02.11.2017. Arguments of learned counsel for private respondent No.3 that the appellant should not be transfer out from Swabi Irrigation Division No.2 Swabi being a probationer, carries no weight.

10. In the light of above discussion, this Tribunal is of considered opinion that the impugned order dated 13.12.2017 is arbitrary and issued on extraneous considerations, hence not tenable in the eyes of law. Consequently the present service appeal is accepted and the impugned order dated 13.12.2017 is set aside, resulting the transfer order dated 02.11.2017 is restored. Parties left to bear their own costs. File be consigned to the record room after its completion.


(AHMAD HASSAN)
MEMBER


(MUHAMMAD HAMID MUGHAL)
MEMBER

مسلم

والله اعلم

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