


# FORM OF ORDER SHEET

Court of \_\_\_\_\_

**Appeal No.** 1078 /2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	31/07/2024	<p>The appeal of Mr. Dawood Khan presented today by Sardar Aman Khan Advocate. It is fixed for preliminary hearing before touring Single Bench at A.Abad on 23.09.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By the order of Chairman</p>  <p>REGISTRAR</p>

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

*Appeal no-1078/2024*

Dawood Khan son of Muhammad Ayub Khan resident of Teer Tehsil and District Haripur (PSHT at Government Primary School Theh District Haripur).

...APPELLANT

VERSUS

Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar & Others.

...RESPONDENTS

**SERVICE APPEAL**

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*[Signature]*  
...APPELLANT

Dated: \_\_\_\_\_/2024

Through

*[Signature]*  
Acc.

(SARDAR AMAN KHAN)  
Advocate Supreme Court of Pakistan,  
At Abbottabad

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

Appeal No. 1078/2024

Dawood Khan son of Muhammad Ayub Khan resident of Teer Tehsil and District Haripur (PSHT at Government Primary School Theh District Haripur).

...APPELLANT

VERSUS

1. Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
2. Director Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar.
3. District Education Officer (M), Haripur.

...RESPONDENTS

**SERVICE APPEAL** UNDER SECTION 4 OF KP SERVICE TRIBUNAL ACT, 1974 AGAINST THE AGAINST OFFICE ORDER BEARING ENDST NO.14037-41 /F.NO.7-1/EB/SDEO(M)/VOL:I DATED 13/03/2024 ISSUED BY RESPONDENT NO.3 VIDE WHICH THE EARLIER OFFICE ORDER BEARING ENDST. NO.11496-99/F.NO.1-3/EB/ADJUSTMENT ORDER DATED 14/12/2023 WHEREBY THE APPELLANT WAS TRANSFERRED FROM GPS THEH TO GPS PHARHARI. HAS BEEN WITHDRAWN IS ILLEGAL, UNLAWFUL, AGAINST THE POLICY OF GOVERNMENT ON TRANSFER / POSTING, HENCE, INEFFECTIVE UPON THE RIGHTS OF APPELLANT.

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**PRAYER:** ON ACCEPTANCE OF INSTANT APPEAL, THE IMPUGNED OFFICE ORDER BEARING ENDST NO.14037-41 /F.NO.7-1/EB/SDEO(M)/VOL:I DATED 13/03/2024 ISSUED BY RESPONDENT NO.3 MAY KINDLY BE SET-ASIDE AND OFFICE ORDER DATED 14/12/2023 MAY GRACIOUSLY BE ORDERED TO BE RESTORED WITH DIRECTION TO RESPONDENT TO ALLOW THE PETITIONER TO CONTINUE PERFORMING HIS DUTIES AT GPS PHARHARI DISTRICT

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HARIPUR. ANY OTHER RELIEF WHICH THIS HONOURABLE TRIBUNAL MAY DEEM FIT AND PROPER MAY ALSO BE GRANTED TO APPELLANT.

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It is respectfully submitted as under:-

1. That the post of appellant was upgraded in the year 2019 under the order of Honorable Peshawar High Court, Abbottabad Bench, however, the respondent issued order on 12/04/2023 from BPS-14 to BPS-15. Not only the order was issued after sufficient time but the appellant was also transferred to a far flung hilly area and that too about 70 KM away from the house of appellant.
2. That it is worth to mention here that the appellant is a heart patient, is unable to drive motorcycle and no local transport is available, therefore, the appellant requested the respondent for his transfer in any nearest station.
3. That the request of appellant was shelved, and when the appellant obtained medical leave another head teacher was posted who is still performing his duties. It is also worth to mention here that in the school of appellant only 35 students are enrolled.
4. That later on, vide office order bearing Endst. No.11496-99/F.No.1-3/EB/Adjustment order dated 14/12/2023 the appellant was transferred from GPS Theh to GPS Pharhari. Copy of order dated 14/12/2023 is attached as Annexure "A".
5. That after period of 03 months the transfer order dated 14/12/2023 of the appellant has been withdrawn by the respondent vide withdrawal / transfer order bearing

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Endst. No.14037-41/F.No.7-1/EB/SDEO(M)/Vol:I dated  
13/03/2024. Copy of withdrawal order dated 13/03/2024  
is attached herewith as Annexure "B".

6. That the appellant tried his level best to convince the respondents to withdraw the impugned transfer office order dated 13/03/2024 and restoration of order dated 14/12/2023 but to no avail.
7. That thereafter, the appellant preferred departmental appeal before respondent No.2 and despite lapse of prescribed period, till, no decision whatsoever on the departmental appeal has been passed by respondent No.2. Copy of departmental appeal is attached as Annexure "C".
8. That since, the time prescribed for filing the instant appeal is going to be lapsed and the purpose of respondent No.2 behind not deciding the departmental appeal is deprive the appellant from redressal of his grievance through this Honorable Tribunal. ~~XXXXXX~~
9. That the appellant has now come to this Honourable forum for setting aside the impugned transfer order inter-alia on the following grounds;-

**GROUND:-**

- a. That the impugned transfer order of the appellant dated 13/03/2024 is politically motivated and based on malafide intention. Hence, the impugned transfer order is liable to be set aside.

- b. That the impugned office order has been passed against the policy as premature transfer without any lawful justification is not warranted since, no lawful justification is available with the respondents to issue such premature transfer order, hence the impugned office order is liable to be set-aside.
- c. That the earlier order dated 14/12/2023 has been withdrawn by respondent vide impugned transfer order dated 13/03/2024 after passage of 03 months which is premature, against the tenure policy of the Civil servants. Hence, the appellant as per law and policy is entitled to be posted at GPS Pharhari-District Haripur.
- d. That the impugned transfer order is perverse, discriminatory, against the natural justice and a blunt blow of hammer on the rights of appellant.
- e. That the impugned order is the result of political motivation and influence. Despite of the fact that Section 10(2) of NWFP Civil Servant Act, 1973 provides that all government servants are prohibited to exert political, administrative or any other pressure upon the posting / transfer authorities for seeking posting / transfer of their choice and against the public interest, the respondent No.3 passed the impugned order which is totally against the law on the subject. Hence, liable to be set aside.
- f. That it is worth to mention here that the appellant has not been given any posting in any other school and the impugned withdrawal order dated 13/03/2024 is liable to be set-aside because the beneficiary of impugned order is an influential person having political backing.

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- g. That respondents are well in the knowledge regarding the time prescribed for filing the instant appeal and the purpose of respondent No.2 behind not deciding the departmental appeal is to deprive the appellant from redressal of his grievance through this Honorable Tribunal. Hence, the impugned order followed by the act of respondents is liable to be set aside.
- h. That the instant appeal is well within time.

It is therefore, humbly prayed that on acceptance of instant appeal, the impugned office order bearing Endst No.14037-41 /F.No.7-1/EB/SDEO(M)/Vol:I dated 13/03/2024 issued by respondent No.3 may kindly be set-aside and office order dated 14/12/2023 may graciously be ordered to be restored with direction to respondent to allow the petitioner to continue performing his duties at GPS Pharhari District Haripur. Any other relief which this honourable tribunal may deem fit and proper may also be granted to appellant.


**INTERIM RELIEF:-**

In the meanwhile, the operation of office order bearing Endst. No.14037-41 /F.No.7-1/EB/SDEO(M)/Vol:I dated 13/03/2024 issued by respondent No.3 may graciously be ordered to be suspended, till final decision of instant departmental appeal.

Dated: \_\_\_\_\_/2024

Through

  
...APPELLANT

  
Asst.  
**(SARDAR AMAN KHAN)**  
Advocate Supreme Court of Pakistan,  
At Abbottabad

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

Dawood Khan son of Muhammad Ayub Khan resident of Teer Tehsil and District Haripur (PSHT at Government Primary School Theh District Haripur).

...APPELLANT

**VERSUS**

Government of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education Department Khyber Pakhtunkhwa Peshawar & Others.

...RESPONDENTS

**SERVICE APPEAL**

**AFFIDAVIT**

I, Dawood Khan son of Muhammad Ayub Khan resident of Teer Tehsil and District Haripur (PSHT at Government Primary School Theh District Haripur), do hereby solemnly affirm and declare that the contents of foregoing service appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Tribunal.

  
DEPONENT



OFFICE OF THE DISTRICT EDUCATION OFFICER (M)  
HARIPUR

Ph. No. 0995-920150, 920151,  
Email: [deomalearp@yahoo.com](mailto:deomalearp@yahoo.com)

ANNEXURE A



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ADJUSTMENT ORDER:

The following adjustments of Teaching staff are hereby made on their own pay & grade in the best interest of public service with immediate effect.

S. No.	Name of Officials with Designation	Name of School Posting	Proposed/Adjustment Station	Remarks
01.	Muhammad Shoukat PSHT	GPS Pharhari	GPS Maira Toot	Vice Mr. Saif Ullah Khan PSHT who proceeded on retirement w.e.f 15-01-2024
03.	Daud Khan PSHT	GPS Theh	GPS Pharhari	Vice S.No 1

Note: -

1. This order is implanted after the retirement of Mr. Saif Ullah Khan PSHT GPS Maira Toot.
2. No TA/DA is allowed.
3. Charge Report should be submitted to all concerned.

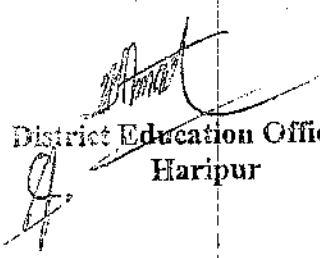
.....Sd.....  
District Education Officer (Male)  
Haripur

Endst. No. 11496-99 /F.No.1-3/EE/ Adjustment Order

Dated: 14/12/2023

Copy submitted to the: -

1. Senior District Accounts Officer Haripur.
2. District Monitoring Officer (EMA) Haripur
3. SDEO Male Haripur.
4. ASDEO Concerned.
5. Officials concerned.
6. Office record.

  
District Education Officer (Male)  
Haripur

ANNEXURE "B"

OFFICE OF THE DISTRICT EDUCATION OFFICER (M)  
HARIPUR

Ph. No. 0995-920150, 920151,  
Email: [deomalehrp@yahoo.com](mailto:deomalehrp@yahoo.com)



P-B

WITHDRAWAL ORDER.

This office order issued under Endst No.11496-99/F.No.1-3/EB/Adjustment Order dated 14-12-2023 i  
w/o Mr. David Khan PSHT GPS Then to GPS Pharari Haripur at S.No.02 is hereby withdrawn due to single teacher  
school, in the best interest of public service with immediate effect.

--- sd ---


District Education Officer (Male)  
Haripur

Endst. No. 14037-41 /F.No.7-1/EB/SDEO (M)/Vol.1

Dated 13/03/2024.

Copy submitted to the: -

1. Senior District Account officer Haripur.
2. District Monitoring Officer (EMA) Haripur.
3. SDEO (M) Concerned.
4. ASDEO circle concerned.
5. EMIS Local Office Haripur.
6. Teacher concerned.
7. Office record file.

  
District Education Officer (Male)  
Haripur

*ANNEXURE "C" P-9*

THE DIRECTOR ELEMENTARY & SECONDARY  
EDUCATION, KHYBER PAKHTUNKHWA, PESHAWAR

Dawood Khan son of Muhammad Ayub Khan resident of Teer Tehsil and District Haripur (PSHT at Government Primary School Theh District Haripur).

...APPELLANT

VERSUS

District Education Officer (Male), Haripur.

...RESPONDENT

DEPARTMENTAL APPEAL / REPRESENTATION AGAINST  
OFFICE ORDER BEARING ENDST NO.14037-41 /F.NO.7-  
1/EB/SDEO(M)/VOL:I DATED 13/03/2024 ISSUED BY  
RESPONDENT VIDE WHICH THE EARLIER OFFICE ORDER  
BEARING ENDST. NO.11496-99/F.NO.1-3/EB/ADJUSTMENT  
ORDER DATED 14/12/2023 WHEREBY THE APPELLANT WAS  
TRANSFERRED FROM GPS THEH TO GPS PHARHARI, HAS  
BEEN WITHDRAWN.

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PRAYER: ON ACCEPTANCE OF INSTANT APPEAL, THE  
IMPUGNED WITHDRAWAL / TRANSFER ORDER BEARING  
ENDST. NO.14037-41/F.NO.7-1/EB/SDEO(M)/VOL:I DATED  
13/03/2024 ISSUED BY RESPONDENT MAY KINDLY BE SET-  
ASIDE AND OFFICE ORDER DATED 14/12/2023 MAY  
GRACIOUSLY BE ORDERED TO BE RESTORED WITH  
DIRECTION TO RESPONDENT TO ALLOW THE PETITIONER  
TO CONTINUE PERFORMING HIS DUTIES AT GPS  
PHARHARI DISTRICT HARIPUR. ANY OTHER RELIEF

WHICH THIS HONOURABLE FORUM MAY DEEM FIT AND PROPER MAY ALSO BE GRANTED TO APPELLANT.

---

It is respectfully submitted as under:-

1. That the post of appellant was upgraded in the year 2019 under the order of Honorable Peshawar High Court, Abbottabad Bench, however, the respondent issued order on 12/04/2023 from BPS-14 to BPS-15. Not only the order was issued after sufficient time but the appellant was also transferred to a far flung hilly area and that too about 70 KM away from the house of appellant.
2. That it is worth to mention here that the appellant is a heart patient, is unable to drive motorcycle and no local transport is available, therefore, the appellant requested the respondent for his transfer in any nearest station.
3. That the request of appellant was shelved, and when the appellant obtained medical leave another head teacher was posted who is still performing his duties. It is also worth to mention here that in the school of appellant only 35 students are enrolled.
4. That later on, vide office order bearing Endst. No.11496-99/F.No.1-3/EB/Adjustment order dated 14/12/2023 the appellant was transferred from GPS Theh to GPS Pharhari. Copy of order dated 14/12/2023 is attached as Annexure "A".
5. That after period of 03 months the transfer order dated 14/12/2023 of the appellant has been withdrawn by the respondent vide withdrawal / transfer order bearing Endst. No.14037-41/F.No.7-1/EB/SDEO(M)/Vol:I dated 13/03/2024.

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Copy of withdrawal order dated 13/03/2024 is attached herewith as Annexure "B".

6. That feeling aggrieved, the appellant now prefers the instant departmental appeal / representation before your gracious honor for setting aside order dated 13/03/2024 and restoration of order dated 14/12/2023, inter-alia, on the following grounds;-

GROUND:-

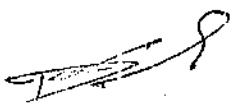
- a. That the withdrawal order of the appellant dated 13/03/2024 is politically motivated and based on malafide intention. Therefore, as per merit of case the withdrawal order dated 13/03/2024 may be set-aside while that of order dated 14/12/2023 be restored.
- b. That the transfer order dated 14/12/2023 has been withdrawn within a period of 03 months which is illegal, premature and against the tenure policy of the Civil servants. Hence, the appellant as per law and policy is entitled to be posted at GPS Pharhari,
- c. That the appellant is at the verge of his retirement and as per law / policy the appellant is entitled to be posted at the nearest station, however, through the impugned order the appellant is now in hanging position which is highly unjust, unfair, and uncalled for.
- e. That the impugned withdrawal order dated 13/03/2024 is perverse, discriminatory, against the natural justice and a blunt blow of hammer on the rights of appellant.

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f. That it is worth to mention here that the appellant has not been given any posting in any other school and the impugned withdrawal order dated 13/03/2024 is liable to be set-aside because the beneficiary of order is an influential person having political backing.

In view of above it is prayed that on acceptance of instant appeal, the impugned withdrawal / transfer order bearing Endst. No.14037-41/F.No.7-1/EB/SDEO(M)/Vol:I dated 13/03/2024 issued by respondent may kindly be set-aside and office order dated 14/12/2023 may graciously be ordered to be restored with direction to respondent to allow the petitioner to continue performing his duties at GPS Pharhari District Haripur. Any other relief which this honourable forum may deem fit and proper may also be granted to appellant.

Dated: 22/03/2024

  
APPELLANT  
Dawood Khan  
S/o Muhammad Ayub Khan  
R/o Teer Tehsil & District Haripur  
(PSHT at GPS Theh District Haripur)

AFFIDAVIT:-

I, Dawood Khan son of Muhammad Ayub Khan resident of Teer Tehsil and District Haripur (PSHT at Government Primary School Theh District Haripur), do hereby solemnly affirm and declare that the contents of foregoing departmental appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Forum.

  
DEPONENT

الحاج سردار بہادر خان (مرحوم) لاء ایسوسی ایٹس

بعدالت صاحب۔ صاحب منیجنگ سروس ٹریبونل KPK کے سامنے

بمقدمہ دائر خانہ بنام گورنمنٹ آف KPK وٹمنہ

موز 29 جولائی 2024ء پنجاب ٹریبونل

دعویٰ اپیل انگریزی اور درخواست آرٹ پٹیشن

سروس میں

بحرم

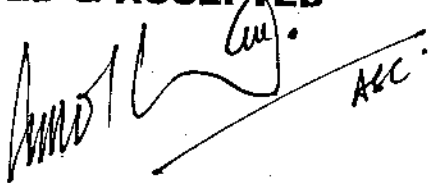
مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جوابدہی مقام ایٹ ایس ایس

سردار امان خان ایڈووکیٹ سپریم کورٹ آف پاکستان بدیں شرط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو بروعدالت حاضر ہوتا رہوں گا اور بوقت پکارے جانے وکیل صاحب موصوف کو اطلاع دے کر حاضر کروں گا۔ اگر کسی پیشی پر مظہر حاضر نہ ہوا اور غیر حاضری کی وجہ سے کسی طور پر مقدمہ میرے خلاف ہو گیا تو صاحب موصوف اس کے کسی طرح ذمہ دار نہ ہوں گے نیز وکیل صاحب موصوف صادر مقام پچہری کے علاوہ کسی اور جگہ یا پچہری کے مقررہ اوقات سے پہلے یا بروز تعطیل پیروی کرنے کے مجاز نہ ہوں گے۔ اگر مقدمہ مقام پچہری کے کسی اور جگہ سماعت ہونے یا بروز پچہری کے اوقات کے آگے یا پیچھے ہونے پر مظہر کو کوئی نقصان پہنچے تو ذمہ دار یا اس کے واسطے کسی معاوضہ ادا کرنے مختار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھے کل ساختہ پرداختہ صاحب مثل کردہ ذات خود منظور قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ اور درخواست اجراءے ڈگری و نظری ثانی اپیل انگریزی دائر کرنے نیز ہر قسم کی درخواست پر دستخط تصدیق کرنے کا بھی اختیار ہوگا اور کسی حکم یا ڈگری کے اجراء کرانے اور ہر قسم کا روپیہ وصول کرنے اور رسید دینے اور داخل کرانے کا ہر قسم کا بیان دینے اور پروتاشی و راضی نامہ و فیصلہ برخلاف کرنے و اقبال دعویٰ کو اختیار ہوگا۔ اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یک طرفہ درخواست حکم اتمامی یا ڈگری قبل از فیصلہ اجراءے ڈگری بھی صاحب موصوف کو بشرط ادائیگی علیحدہ پیروی مختار نامہ کرنے کا مجاز ہوگا اور بصورت ضرورت اپیل یا اپیل کے واسطے کسی دوسرے وکیل یا پیرسٹر کو بجائے اپنے ہمراہ مقرر کریں اور ایسے مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے۔ صاحب موصوف کو پوری نسیان پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی نہ کریں اور ایسی حالت میں میرا مطالبہ صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا مختار نامہ لکھ دیا ہے کی سند ہے۔ مضمون مختار نامہ سن لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور کرتے ہوئے اپنے دستخط انشان انگوٹھا ثبت کر دیے ہیں۔ نیز بصورت تہدیک وکیل صاحب موصوف میری اہماری کوئی دعویداری نسبت فیس ہائے دار تاش پرت ہوگی۔ لہذا اذکالت نامہ تحریر کر دیا ہے تاکہ سند ہے۔

الرقوم:

مقام لیسٹ ایڈووکیٹ آباد کے لئے منظور ہے۔

ATTESTED &amp; ACCEPTED



Sardar Aman Khan

Advocate Supreme Court of Pakistan

Call # 0321-9800878