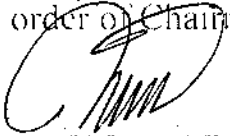


FORM OF ORDER SHEET

Court of _____

Appeal No. 1080 /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. Ibrar Shah 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  REGISTRAR</p> |

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

Appeal no. 1080/2024

Ibrar Shah, C.T Government Middle School Bandi Mian, Pir Dad, Tehsil & District Haripur.

...APPELLANT

VERSUS

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

...RESPONDENTS

SERVICE APPEAL

INDEX

| <i>S.#</i> | <i>Description</i> | <i>Page #</i> | <i>Annexures</i> |
|------------|--|---------------|------------------|
| 1. | Service Appeal alongwith affidavit | 01 to 05 | |
| 2. | Copy of the impugned transfer order dated 12/03/2024 | 6 | "A" |
| 3. | Copy of Departmental Appeal | 7 | "B" |
| 4. | Wakalatnama | 8 | |

[Signature]
...APPELLANT

Dated: _____/2024

Through

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

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

Appeal no. 1080/2024

Ibrar Shah, C.T Government Middle School Bandi Mian, Pir Dad, Tehsil & 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 OFFICE ORDER BEARING ENDST. NO. 13934-37 / TRANSFER / POSTING DATED 12/03/2024 ISSUED BY RESPONDENT NO.3 VIDE WHICH THE APPELLANT AGAIN TRANSFERRED FROM GMS BANDI MIAN PIR DAD TO GHS KARPILIAN DISTRICT HARIPUR IS ILLEGAL, UNLAWFUL, AGAINST THE POLICY OF GOVERNMENT ON TRANSFER / POSTING, HENCE, INEFFECTIVE UPON THE RIGHTS OF APPELLANT.

PRAYER: ON ACCEPTANCE OF INSTANT APPEAL, THE IMPUGNED THE OFFICE ORDER BEARING ENDST. NO. 13934-37 / TRANSFER / POSTING DATED 12/03/2024 ISSUED BY RESPONDENT NO.3 MAY KINDLY BE SET-ASIDE AND APPELLANT BE ALLOWED TO CONTINUE PERFORMING HIS DUTIES AT GMS MANDI MIAN PIR DAD DISTRICT HARIPUR. ANY OTHER RELIEF WHICH THIS HONOURABLE TRIBUNAL MAY DEEM FIT AND PROPER MAY ALSO BE GRANTED TO APPELLANT.

It is respectfully submitted as under:-

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1. That the appellant was appointed in education department and was appointed in the year 1997 and after performing his duties as such in different schools as PST, SPST. Thereafter, in the year 2017 the appellant was promoted from SPST to C.T and was transferred to Government Middle School Serian Dharm Pani.
2. That thereafter after completion of tenure of 03 years at GMS Serian Dharm Pani, the appellant was transferred to Government Middle School Bandi Mian Pir Dad.
3. That to the utter surprise of appellant, just after few months, the appellant was again transferred from GMS Bandi Mian Pir Dad to GHS Karpilian District Haripur vide impugned office order bearing Endst. No. 13934-37 /Transfer / Posting dated 12/03/2024. Copy of the impugned transfer order dated 12/03/2024 is attached as Annexure "A".
4. That the appellant tried his level best to convince the respondents to withdraw the impugned transfer office order but to no avail.
5. 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 "A".
6. That despite lapse of prescribed period, till, no decision whatsoever on the departmental appeal has been passed by respondent No.2.

7. 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~~
8. 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 12/03/2024 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 transfer order of appellant at GMS Bandi Mian Pir Dad has not been considered by respondents and vide impugned transfer order dated 12/03/2024 after passage of few 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 GMS Bandi Mian Pir Dad, District Haripur.

- d. That the impugned transfer order dated 12/03/2024 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 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.
- g. 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. 13934-37 / transfer / posting dated 12/03/2024 issued by respondent No.3 may kindly be set-aside and appellant be allowed to continue performing his duties at GMS Mandi Mian Pir Dad District Haripur. Any other relief which this honourable tribunal may deem fit and proper may also be granted to appellant.

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INTERIM RELIEF:-

In the meanwhile, the operation of impugned office order bearing Endst. No. 13934-37 / transfer / posting dated 12/03/2024 issued by respondent No.3 may graciously be ordered to be suspended, till final decision of instant departmental appeal.

Mian
...APPELLANT

Through

Dated: _____/2024

AM
ASC

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

AFFIDAVIT:-

I, Ibrar Shah, C.T Government Middle School Bandi Mian, Pir Dad, Tehsil & 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.

Ibrar Shah
DEPONENT



OFFICE OF THE DISTRICT EDUCATION OFFICER (M)
HARIPUR

Ph. No. 0995-920150, 920151.
Email: dir@malchrrp.gov.hk



ANNEAURE "A"

ADJUSTMENT ORDER.

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The adjustment of the following teaching staff of Elementary & Secondary Education Department due to shortage of staff is hereby made on their own pay & grade in the best interest of public service with immediate effect.

| S. # | Name & Designation | From School | To School | Remarks |
|------|----------------------------|---------------------------|---------------|---------------------------------|
| 1 | Ibrar Shah CT | GMS Banda Mian Pir Dad | GHS Kariplian | AVP due to shortage of staff |
| 2 | Muhammad Ibrahim Sr. CT | GHSS No.02 Haripur | GHS Badhora | AVP due to shortage of staff |

Notes: -

1. Charge report should be submitted to all concerned.
2. TA/DA is not allowed.

--sd--

District Education Officer (Male)
Haripur

Endst: No. *12924-37* / F.No.1-3/EB/ Adjustment Order

Dated: *12/03/2024*

Copy submitted to the: -

1. Senior District Accounts Officer Haripur.
2. District Monitoring Officer Haripur
3. Principal / DDO Concerned.
4. EMIS Local Office Haripur.
5. Office record file.

[Signature]
District Education Officer (Male)
Haripur

ANNEX "B"

P-7 کے لئے طلبہ کی فہرست

اساتذہ کرام،

مدرسہ اسلامیہ،

پتو: P-7،

SPST

GMS

سے لے کر ایسے تمام طلبہ کی فہرست

سائنس ایف ڈی

12/03/2024

GMS ہائیڈری میاں پیر

عالیجاہ: اس آرڈر سے مجھے ذہنی اور جسمانی تکلیف ہوئی اور

ڈسٹنس ہے 100 فوٹ پر درر تقیبات کے جہاں پر

میں

عالیجاہ: سے التماس ہے کہ میری سہیل پر ہمدردی ہو اور

میرے آرڈر کو فی الفور مسترد فرمائیں اور مجھے ایسے سفارشی پتے پر ہمدردی ہو

میں دوبارہ تقیبات نہ لگیں

الغافل عنہ

ابرار شاہ C

GMS ہائیڈری میاں پیر

فون: 0346 6685

الحاج سردار بہادر خان (مرحوم) لاء ایسوسی ایٹس

صاحب صاحب من سرور کٹر بنوں کٹر لکھنؤ

بعدالت

بنام گورنمنٹ آف پاکستان

بمقدمہ الہر شاہ

مخانب

موری

سرور من

دعویٰ اپیل انگریزی اور درخواست آرٹ پشین

بحرم

مندرجہ بالا عنوان میں اپنی طرف سے واسطے بیروی وجود ہی مقام لکھنؤ

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 برو عدالت حاضر ہوتا ہوں گا اور بوقت پکارے جانے وکیل صاحب موصوف کو اطلاع دے کر حاضر کروں گا۔ اگر کسی پیشی پر
مظاہر حاضر نہ ہو 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 پکھری کے عاودہ کسی اور جگہ یا پکھری کے مقررہ اوقات سے پہلے یا بروز تعطیل بیروی کرنے
کے مجاز نہ ہوں گے۔ اگر مقدمہ مقام پکھری کے کسی اور جگہ ساعت ہونے یا بروز پکھری کے اوقات کے آگے یا پیچھے ہونے پر مظاہر کو کوئی
نقصان پہنچے تو سردار یا اس کے واسطے کسی معاوضہ ادا کرنے مختار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھے
کل ساختہ پرواختہ صاحب مثل کردہ ذات خود منظور قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ اور درخواست اجرائے ڈگری و نظر
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 بر خلاف کرنے و اقبال دعویٰ کو
اختیار ہوگا۔ اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یک طرفہ درخواست حکم اقامتی یا ڈگری قبل از فیصلہ اجرائے ڈگری بھی
صاحب موصوف کو بشرط ادائیگی علیحدہ بیروی مختار نامہ کرنے کا مجاز ہوگا اور بصورت ضرورت اپیل یا اپیل کے واسطے کسی دوسرے وکیل
یا بیرون کو بجائے اپنے ہمراہ مقرر کریں اور ایسے مشیر قانونی کو بھی اس امر میں وہی اختیارات حاصل ہوں گے۔ صاحب موصوف کو پوری
فیصلہ ساری پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی بیروی 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 تیدگی وکیل صاحب موصوف میری اہماری کوئی دعویٰ داری
نسبت فیس ہائے وارٹائش پر نہ ہوگی۔ لہذا ادا کالت نامہ تحریر کر دیا ہے تاکہ سند ہے۔

المرقوم

سرور من / الہر شاہ کے لئے منظور ہے۔

ATTESTED & ACCEPTED



Sardar Aman Khan

Advocate Supreme Court of Pakistan

Call # 0321-9800878

الہر شاہ
Mansoor