


FORM OF ORDER SHEET

Court of _____

Appeal No. 1081/2024

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. Muhammad Hanif 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. 1081/2024

Muhammad Hanif Sr.PET GHS Aloli Tehsil and 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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3.	Copy of departmental appeal	6 to 8	"B"
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Hanif
...APPELLANT
Muhammad Hanif Sr.PET
GHS Aloli, Haripur

Through

Dated: _____/2024

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

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

Appeal No. 1081/2024

Muhammad Hanif Sr. PET GHS Aoli Tehsil and 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, FOR DECLARATION TO THE EFFECT THAT TRANSFER / ADJUSTMENT ORDER BEARING ENDST NO.14284-86/F.NO.1-3/EB/ADJUSTMENT ORDER DATED 18/03/2024 ISSUED BY RESPONDENT WHEREBY APPELLANT HAS BEEN TRANSFERRED FROM GHS ALOLI TO GHS B.P DHERI 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 TRANSFER / ADJUSTMENT ORDER BEARING ENDST NO.14284-86/F.NO.1-3/EB/ADJUSTMENT ORDER DATED 18/03/2024 ISSUED BY RESPONDENT NO.3 MAY GRACIOUSLY BE SET-ASIDE AND RESPONDENTS MAY KINDLY BE DIRECTED TO ALLOW THE APPELLANT TO CONTINUE PERFORMING HIS DUTIES AT GHS ALOLI 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 appellant, in his capacity as Sr. PET at Government High School (GHS) Aoli, was diligently executing his duties. However, the respondent, through Endorsement No. 14284-86/F.NO.1-3/EB/Adjustment Order dated 18/03/2024, issued a transfer directive relocating the appellant from his current posting at GHS Aoli to Government High School B.P Dheri, an area situated at a considerable distance from his present location, thus designating it as a far-flung area. Copy of transfer order dated 18/03/2024 is attached as Annexure "A".
2. That the appellant exerted utmost effort to persuade the respondent to retract the challenged transfer office order, however, all attempts proved futile as the respondent remained unyielding in his decision.
3. 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 "B".
4. 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 to deprive the appellant from redressal of his grievance through this Honorable Tribunal. Hence,
5. 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 18/03/2024 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 impugned transfer order is perverse, discriminatory, against the natural justice and a blunt blow of hammer on the rights of appellant.
- d. That even otherwise in between GHS Aloli and GHS B.P Dheri there are 5 to 7 schools wherein posts of Sr. PET are vacant and the appellant could have easily been adjusted, but the respondent with malafide intention and in order to give benefit to a persons of their choice, transfer and posted the appellant. Hence the impugned transfer order is liable to be set-aside.
- 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 transfer / adjustment order bearing Endst No.14284-86/F.No.1-3/EB/Adjustment Order dated 18/03/2024 issued by respondent No.3 may graciously be set-aside and respondents may kindly be directed to allow the appellant to continue performing his duties at GHS Aloli District Haripur. Any other relief which this Honourable Forum may deem fit and proper may also be granted to appellant.

INTERIM RELIEF:-

In the meanwhile, the operation of office order bearing Endst No.14284-86/F.No.1-3/EB/Adjustment Order dated 18/03/2024 issued by respondent No.3 may graciously be ordered to be suspended, till final decision of instant departmental appeal.

Haneef
...APPELLANT

Muhammad Hanif Sr.PET
GHS Aloli, Haripur

Through

Dated: _____/2024

Amo Khan
Asc

(SARDAR AMAN KHAN)

Advocate Supreme Court of Pakistan,
At Abbottabad

AFFIDAVIT:-

I, Muhammad Hanif Sr.PET GHS Aloli Tehsil and 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.

Haneef
DEPONENT

OFFICE OF THE DISTRICT EDUCATION OFFICER (M)

HARIPUR

Ph. No. 0995-920150, 920151,
Email: deomalehrp@yahoo.com

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ADJUSTMENT ORDER.

The adjustment of the following teaching staff is hereby made on their own pay & in the best interest of public service with immediate effect.

S. #	Name & Designation	Transferred		Remarks
		From	To	
1	Mumtaz Ahmad Sr.DM	GHS Chajjian	GHS Ghumawan	Vice S. No. 02
2	Sajjad Haider Sr.DM	GHS Ghumawan	GHS Chajjian	Vice S. No. 01
3	Umair Khan DM	GMS Bagla	GMS Billa	Against Vacant Post
4	Muhammad Hanif Sr.PET	GHS Aloli	GHS B.P Dheri	AVP due to shortage of s
5	Muhammad Nawaz AT	GMS Sawar Maira	GMS Swabi Maira	AVP due to shortage of s
6	Jamal PST	GPS Mir Pur	GPS Sungar	AVP Single Teacher Sch
7	Aksar Khan PST	GPS Anora	GPS Gnadaf	AVP on need bas

Note:-

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

-----sd-----
District Education Officer (Male)
Haripur

Endst: No. 11284-86 /F.No.1-3/EB/ Adjustment Order Dated: 18/13/2024

Copy submitted to the:-

1. Senior District Accounts Officer Haripur.
2. District Monitoring Officer (EMA) Haripur
3. Principal / DDO Concerned.
4. EMIS Branch Local Office.
5. Teachers concerned.
6. Office record file.


District Education Officer (Male)
Haripur

ANNEXURE "B"

THE DIRECTOR ELEMENTARY & SECONDARY EDUCATION,
KHYBER PAKHTUNKHWA, PESHAWAR

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Muhammad Hanif Sr.PET GHS Aoli Tehsil and District Haripur.

...APPELLANT

VERSUS

District Education Officer (M), Haripur.

...RESPONDENT

DEPARTMENTAL APPEAL / REPRESENTATION AGAINST
THE TRANSFER / ADJUSTMENT ORDER BEARING ENDST
NO.14284-86/F.NO.1-3/EB/ADJUSTMENT ORDER DATED
18/03/2024 ISSUED BY RESPONDENT WHEREBY
APPELLANT HAS BEEN TRANSFERRED FROM GHS AOLI
TO GHS B.P DHERI DISTRICT HARIPUR.

PRAYER: ON ACCEPTANCE OF INSTANT APPEAL, THE
IMPUGNED TRANSFER / ADJUSTMENT ORDER BEARING
ENDST NO.14284-86/F.NO.1-3/EB/ADJUSTMENT ORDER
DATED 18/03/2024 ISSUED BY RESPONDENT MAY
GRACIOUSLY BE SET-ASIDE AND RESPONDENT MAY
KINDLY BE DIRECTED TO ALLOW THE APPELLANT TO
CONTINUE PERFORMING HIS DUTIES AT GHS AOLI
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 appellant, in his capacity as Sr. PET at Government High School (GHS) Aoli, was diligently executing his duties. However, the respondent, through Endorsement No. 14284-86/F.NO.1-3/EB/Adjustment Order dated 18/03/2024, issued a transfer directive

relocating the appellant from his current posting at GHS Aloli to Government High School B.P Dheri, an area situated at a considerable distance from his present location, thus designating it as a far-flung area.

- 2. That the appellant exerted utmost effort to persuade the respondent to retract the challenged transfer office order, however, all attempts proved futile as the respondent remained unyielding in his decision.
- 3. 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 18/03/2024 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 impugned transfer order is perverse, discriminatory, against the natural justice and a blunt blow of hammer on the rights of appellant.
- d. That even otherwise in between GHS Aloli and GHS B.P Dheri there are 5 to 7 schools wherein posts of Sr. PET are vacant and the appellant could have easily been adjusted, but the respondent with malafide intention and in order to give benefit to a persons of their choice, transfer and posted the appellant. Hence the impugned transfer order is liable to be set-aside.
- e. That it would be in the interest of justice if a chance of personal hearing is afforded to the appellant.
- f. That the instant departmental appeal is well within time.

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- 2. That the appellant exerted utmost effort to persuade the respondent to retract the challenged transfer office order, however, all attempts proved futile as the respondent remained unyielding in his decision.
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- a. That the impugned transfer order of the appellant dated 18/03/2024 is politically motivated and based on malafide intention. Hence, the impugned transfer order is liable to be set aside.
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- c. That the impugned transfer order is perverse, discriminatory, against the natural justice and a blunt blow of hammer on the rights of appellant.
- d. That even otherwise in between GHS Aloli and GHS B.P Dheri there are 5 to 7 schools wherein posts of Sr. PET are vacant and the appellant could have easily been adjusted, but the respondent with malafide intention and in order to give benefit to a persons of their choice, transfer and posted the appellant. Hence the impugned transfer order is liable to be set-aside.
- e. That it would be in the interest of justice if a chance of personal hearing is afforded to the appellant.
- f. That the instant departmental appeal is well within time.

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It is therefore, humbly prayed that on acceptance of instant appeal, the impugned transfer / adjustment order bearing Endst No.14284-86/F.No.1-3/EB/Adjustment Order dated 18/03/2024 issued by respondent may graciously be set-aside and respondent may kindly be directed to allow the appellant to continue performing his duties at GHS Aloli District Haripur. Any other relief which this Honourable Forum may deem fit and proper may also be granted to appellant.

INTERIM RELIEF:-

In the meanwhile, the operation of office order bearing Endst No.14284-86/F.No.1-3/EB/Adjustment Order dated 18/03/2024 issued by respondent may graciously be ordered to be suspended, till final decision of instant departmental appeal.

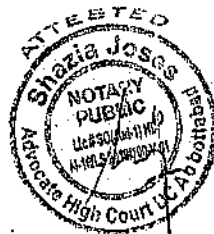
Dated: _____/2024

...**APPELLANT**
Muhammad Hanif Sr.PET
GHS Aloli Tehsil and
District Haripur

AFFIDAVIT:-

I, Muhammad Hanif Sr.PET GHS Aloli Tehsil and 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 ایشن

بعدالت خدب جیہر منجھل سرورس کیمبرینول KPK لیٹاور
مقدمہ مقدمہ منجھل بنام گورنمنٹ آف KPK لیٹاور

موزی منجانب سرورس کیمبرینول
دعویٰ اپیل انگریزی اور خواست آرٹ پیشین سرورس کیمبرینول

مترجم مندرجہ بالا عنوان میں اپنی طرف سے واسطے پیروی و جوابدہی مقام لیسٹاور

سرورس ارمان خان ایڈووکیٹ سیریم کورٹ آف پاکستان میں شرط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رہبر عدالت حاضر ہوتا رہوں 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 ساور مقام کیمبری کے علاوہ کسی اور جگہ یا کیمبری کے مقررہ اوقات سے پہلے یا بروز تعطیل حیرتی کرنے کے مجاز نہ ہوں گے۔ اگر مقدمہ مقام کیمبری کے کسی اور جگہ ساعت ہونے یا بروز کیمبری کے اوقات کے آگے یا پیچھے ہونے پر ناظر 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 پرداخت صاحب مثل کردہ ذات خود منظور قبول ہوگا اور صاحب موصوف کو عرضی و دعوئی اور درخواست اجراء ڈگری و نظر ثانی اپیل انگریزی دائر کرنے نیز ہر قسم کی درخواست پر دستخط تصدیق کرنے کا بھی اختیار ہوگا اور کسی ٹیم 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 پروٹاٹی و رضی نامہ و فیصلہ بر خلاف کرنے و اقبال دعوئی کو اختیار ہوگا اور بصورت اپیل و ہر آمدگی مقدمہ یا منسوخی ڈگری کی طرف درخواست حکم اتھالی یا ڈگری قبل از فیصلہ اجراء ڈگری بھی صاحب موصوف کو بشرط ادا کی علیحدہ پیروی اختیار نامہ کرنے کا مجاز ہوگا اور بصورت ضرورت اپیل یا اپیل کے واسطے کسی دوسرے وکیل یا ایگزیکٹو کو بجائے اپنے ہمراہ مقرر کریں اور ایسے مشیر قانونی کو بھی اس امر میں وہی اختیار حاصل ہوں گے۔ صاحب موصوف کو پوری ذمہ داری پیشی سے پہلے ادا نہ کروں گا تو صاحب موصوف کو پورا اختیار ہوگا کہ مقدمہ کی پیروی کریں اور ایسی حالت میں میرا مطالبہ صاحب موصوف کے برخلاف نہیں ہوگا۔ لہذا اختیار نامہ لکھ دیا ہے کہ مندرجہ مضمون مختار نامہ من لیا ہے اور اچھی طرح سمجھ لیا ہے اور منظور کرتے ہوئے اپنے دستخط انشان انگوٹھا ثبت کر دیے ہیں۔ نیز بصورت تجدیدگی وکیل صاحب موصوف میری امدادی کوئی دعویداری نسبت نہیں ہائے دائر غاش پر نہ ہوگی۔ لہذا اوقات نامہ تحریر کر دیا ہے تاکہ سند ہے۔

Honey General

المترجم: لسٹاور / اسٹاٹ نامہ کے لئے منظور ہے۔

ATTESTED & ACCEPTED

(Signature)
acc.

Sardar Aman Khan
Advocate Supreme Court of Pakistan
Call # 0321-9800678