


FORM OF ORDER SHEET

Court of _____

Appeal No. 1083/2024

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 Mst. Ancela Murad 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. 1083/2024

Aneela Murad wife of Zubair Khan, PST (BPS-12) GGCMS Nelore Maira (EMIS-32606) 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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Aneela Murad
...APPELLANT

Through

Dated: ___/___/2024

(Signature)
ACC

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

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

Appeal no. 1083/2024

Aneela Murad wife of Zubair Khan, PST (BPS-12) GGCMS Nelore Maira (EMIS-32606) 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 (Female), Haripur.

...RESPONDENTS

SERVICE APPEAL UNDER SECTION 4 OF KP SERVICE TRIBUNAL ACT, 1974 AGAINST THE AGAINST THE TRANSFER / ADJUSTMENT ORDER BEARING ENDST NO.2122-27 DATED 18/03/2024 ISSUED BY RESPONDENT WHEREBY APPELLANT HAS BEEN TRANSFERRED FROM GGCMS NELORE MAIRA TO GGPS KANGAR AMGAH 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.2122-27 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 HER DUTIES AT GGCMS NELORE MAIRA 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:-

1. That the appellant was performing her duties as PST at GGPS Neelor Maira. The respondent vide order Endst No.3292-96 dated 30/03/2023 transferred the appellant from GGPS Neelor Maira to GGPS Bhat which is a far flung hilly area. It is worth to mention here during the tenure of appellant in GGPS Neelor Maira remained 100% and the efforts of appellant have always been appreciated by the high-ups.
2. That the appellant in order to comply with the said order issued by respondent, took over the charge at GGPS Bhat. However, the transfer order was cancelled after 04 months vide office order bearing Endst. No.6264-66 dated 22/07/2023. Copy of order dated 22/07/2023 is attached as Annexure "A".
3. That again i.e after 7/8 months the appellant was transferred on the ground that appellant is the member of a political party whereas, on the said dates, the appellant being government servant was on election duty. Despite of the fact that the appellant has no concern whatsoever with the political parties.
4. That appellant belongs to a poor family having suckling baby besides, she herself is a patient, the respondent department has made the appellant scapegoat and she is being subjected to political victimization. Vide order dated 18/03/2024 the appellant has again been transferred from GGCMS Neelor Maira to GGPS Kangar Amgah. Copy of order dated 18/03/2024 is attached as Annexure "B".

5. That the appellant tried her level best to convince the respondents to withdraw the impugned transfer office order dated 18/03/2024 but to no avail.
6. 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".
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 her grievance through this Honorable Tribunal.
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 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 withdrawal order dated 18/03/2024 is perverse, discriminatory, against the natural justice and a blunt blow of hammer on the rights of appellant.
- d. That during the whole service record, even a single complaint has not been filed by any person either private or government officer/ officials then subjecting the appellant in frequent transfer is highly unjustified and unreasonable. Hence the instant appeal.
- 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, the impugned order dated 18/03/2024 of respondent is a worst example of discrimination and misuse of powers/ authority.
- 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 transfer / adjustment order bearing Endst No.2122-27 dated 18/03/2024 issued by respondent No.3 may graciously be set-aside and respondent may kindly be directed to allow the appellant to continue performing her duties at GGCMS Nelore Maira 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 impugned transfer / adjustment order bearing Endst No.2122-27 dated 18/03/2024 issued by respondent No.3 may graciously be ordered to be suspended, till final decision of instant departmental appeal.

Aneela Murad
...APPELLANT

Dated: _____/2024

Through

(Signature)
ASC

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

AFFIDAVIT:-

I, Aneela Murad wife of Zubair Khan, PST (BPS-12) GGCMS Nelore Maira (EMIS-32606) 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.

Aneela Murad
DEPONENT

ANNEXURE "A"

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OFFICE OF THE
DISTRICT EDUCATION OFFICER (FEMALE)
HARIPUR

Phone No. 0995-920155

WITHDRAWAL ORDER

This office Transfer/Adjustment order in respect of Ms. Aneela Bibi PST BPS-12, GGPS Neelor Maira to GGPS Bhat issued vide order Endst. No. 3292-96 dated 30/03/2023 at S.No.01 is hereby withdrawn subject to the condition that the said school i.e, GGPS Neelor Maira will increase Student's Enrollment after summer vacations in the best interest of public service.

1. No T.A / D.A is allowed.
2. Charge report should be submitted to all concerned.

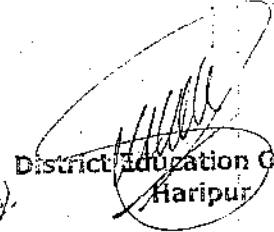

District Education Officer (F)
Haripur

Dated: 22/07 /2023

Endst: No. 6244-66 /

Copy of the above is forwarded to the:-

1. Director E&SE Khyber Pakhtunkhwa, Peshawar.
2. District Accounts Officer Haripur.
3. District Monitoring Officer (EMA) Haripur.
4. SDEO (F) concerned.
5. Office record file.


District Education Officer (F)
Haripur



ANNEXURE B
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**OFFICE OF THE
DISTRICT EDUCATION OFFICER (F)
HARIPUR**

(Office Phone No. 0995-920156)

TRANSFER/ADJUSTMENT ORDER.

The Transfers/Adjustments of the following teacher is hereby ordered as mentioned against her name on her own Pay & Grade in the best interest of public service.

S.No.	Name & Desig:	Adjustment		Remarks
		From	To	
1	Mst Ancela Murad PST EPS -12 13302-7161508-0	GGCMS Nelore Maira (EMIS -32606)	GGPS Kangar Amgah (EMIS -11054)	She is surplus at GGCMS Nelore Maira so adjusted at GGPS Kangar Amgah on need basis.

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

District Education Officer (F)
Haripur

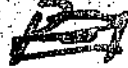
Encls: No. 2122-27 /

Dated: 18 / 03 / 2024

Copy of the above is forwarded to the:-

1. Director E&SE Khyber Pakhtunkhwa, Peshawar.
2. District Accounts Officer Haripur.
3. District Monitoring Officer (EMA) Haripur.
4. SDEO (Female) concerned.
5. Focal Person of HRMIS Local office with the directions to update the data of above mentioned teachers accordingly.
6. Office record file.

District Education Officer (F)
Haripur



THE DIRECTOR ELEMENTARY & SECONDARY
EDUCATION, KHYBER PAKHTUNKHWA, PESHAWAR

Aneela Murad wife of Zubair Khan, PST (BPS-12) GGCMS Nelore Maira (EMIS-32606) Tehsil and District Haripur.

...APPELLANT

VERSUS

District Education Officer (Female), Haripur.

...RESPONDENT

DEPARTMENTAL APPEAL / REPRESENTATION

AGAINST THE TRANSFER / ADJUSTMENT ORDER BEARING
ENDST NO.2122-27 DATED 18/03/2024 ISSUED BY
RESPONDENT WHEREBY APPELLANT HAS BEEN
TRANSFERRED FROM GGCMS NELORE MAIRA TO GGPS
KANGAR AMGAH DISTRICT HARIPUR.

PRAYER: ON ACCEPTANCE OF INSTANT APPEAL, THE
IMPUGNED TRANSFER / ADJUSTMENT ORDER BEARING
ENDST NO.2122-27 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 HER DUTIES AT
GGCMS NELORE MAIRA 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:-

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1. That the appellant was performing her duties as PST at GGPS Neelor Maira. The respondent vide order Endst No.3292-96 dated 30/03/2023 transferred the appellant from GGPS Neelor Maira to GGPS Bhat which is a far flung hilly area. It is worth to mention here during the tenure of appellant in GGPS Neelor Maira remained 100% and the efforts of appellant have always been appreciated by the high-ups.
2. That the appellant in order to comply with the said order issued by respondent, took over the charge at GGPS Bhat. However, the transfer order was cancelled after 04 months vide office order bearing Endst. No.6264-66 dated 22/07/2023. Copy of order dated 22/07/2023 is attached herewith.
3. That again i.e after 7/8 months the appellant was transferred on the ground that appellant is the member of a political party whereas, on the said dates, the appellant being government servant was on election duty. Despite of the fact that the appellant has no concern whatsoever with the political parties.
4. That appellant belongs to a poor family having suckling baby besides, she herself is a patient, the respondent department has made the appellant scapegoat and she is being subjected to political victimization. Vide order dated 18/03/2024 the appellant has against been transferred from GGCMS Neelor Maira to GGPS Kangar Amgah. Copy of order dated 18/03/2024 is attached herewith.

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5. That feeling aggrieved, the appellant now prefers the instant departmental appeal / representation before your gracious honor for setting aside order dated 18/03/2024, inter-alia, on the following grounds:-

GROUNDS:-

- a. That the impugned order dated 18/03/2024 is politically motivated and based on malafide intention. Therefore, as per merit of case the impugned order dated 18/03/2024 may be set-aside.
- b. That though the posting / transfer is the part of the service but same should be done strictly in accordance with law on merits, whereas in the present case, the appellant has been subjected to political victimization which is against the rules, policy of the department and other relevant provisions of law on the subject. Hence, the impugned order dated 18/03/2024 is liable to be set aside.
- e. That the impugned withdrawal order dated 18/03/2024 is perverse, discriminatory, against the natural justice and a blunt blow of hammer on the rights of appellant.
- f. That, the impugned order dated 18/03/2024 of respondent is a worst example of discrimination and misuse of powers/ authority.
- g. That during the whole service record, even a single complaint has not been filed by any person either private or government officer/ officials, then


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subjecting the appellant in frequent transfer is highly unjustified and unreasonable. Hence the instant appeal.

h. That appellant request your gracious honor for a chance of personal hearing.

In view of above it is prayed that on acceptance of instant appeal, the impugned transfer / adjustment order bearing Endst No.2122-27 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 her duties at GGCMS Nelore Maira 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
Aneela Murad
W/o Zubair Khan,
PST (BPS-12) GGCMS Nelore Maira
Tehsil & District Haripur

AFFIDAVIT:-

I, Aneela Murad wife of Zubair Khan, PST (BPS-12) GGCMS Nelore Maira (EMIS-32606) 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 ایٹس

ضرب حشر میں طلب سروس کے بیڈوں کے لئے لکھنؤ

بقدمہ اینڈ فراڈ نام گدہ پنڈت آئی آر کے کے وغیرہ

دورہ پنجاب

دعویٰ اپیل انگریزی اور خواست آرٹ پیشکش سروس ایس

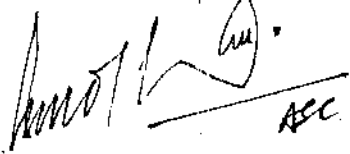
بجرم

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

سردار امان خان ایڈووکیٹ سپریم کورٹ آف پاکستان بدین شرط وکیل مقرر کیا ہے کہ میں ہر پیشی پر خود یا بذریعہ مختار خاص رو برو عدالت حاضر ہونا ہوں گا اور بوقت پکارے جانے وکیل صاحب موصوف کو اطلاع دے کر حاضر کروں گا۔ اگر کسی پیشی پر ناظر حاضر نہ ہوں 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 صا در 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 ناظر کو کوئی نقصان پہنچے تو ذمہ دار یا اس کے واسطے کسی معاوضہ ادا کرنے یا مختار نامہ واپس کرنے کے بھی صاحب موصوف ذمہ دار نہ ہوں گے۔ مجھے کل ساختہ پروا نہ صاحب مثل کردہ ذات خود منظور قبول ہوگا۔ اور صاحب موصوف کو عرضی دعویٰ اور درخواست اجراء ڈگری و نظر ثانی اپیل گمراہی 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 سپرد تاشی وراثتی نامہ فیصلہ بر خلاف کرنے و اقبال دعویٰ کو اختیار ہوگا۔ اور بصورت اپیل و برآمدگی مقدمہ یا منسوخی ڈگری یک طرفہ درخواست حکم اختتامی یا ڈگری قبل از فیصلہ اجراء ڈگری بھی صاحب موصوف کو بشرط ادا کی علیحدہ پیروی مختار نامہ کرنے کا مجاز ہوگا اور بصورت ضرورت اپیل یا اپیل کے واسطے کسی دوسرے وکیل یا ایئر سٹو کو بجائے اپنے ہمراہ مقرر کریں اور ایسے مشیر قانونی کو بھی اس امر میں وہی اختیار حاصل ہوں گے۔ صاحب موصوف کو پوری فیسیارن 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 کہ سند ہے۔ مضمون مختار نامہ من ایسا ہے اور اچھی طرح سمجھ لیا ہے اور منظور کرتے ہوئے اپنے دستخط انشان انگوٹھا ثبت کر دیے ہیں۔ نیز بصورت فوری وکیل صاحب موصوف میری اہماری کوئی دعویداری نسبت فیس ہائے وراثت پر نہ ہوگی۔ لہذا اذکالت نامہ تحریر کر دیا ہے تاکہ سند ہے۔

المرقوم: _____
مقام لکھنؤ

ATTESTED & ACCEPTED


ACC.

Sardar Aman Khan
Advocate Supreme Court of Pakistan
Call # 0321-9800878