


FORM OF ORDER SHEET

Court of _____

Appeal No. _____

1751/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1-	2	3
1-	03 /10/2024.	<p>The appeal of Mr. Zahir Shah resubmitted today by Mr. Ali Gohar Durrani Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 08.10.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

The appeal of Mr. Zahir Shah received today i.e on 01.10.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Copy of order dated 23.01.2023 mentioned in para-7 of the memo of appeal (Annexure-C) is not attached with the appeal be placed on it.
- 2- Annexures- B & C of the appeal are illegible be replaced by legible/better one.
- 3- According to sub-rule-4 of rule-6 of Khyber Pakhtunkhwa Service Tribunal rules 1974 respondent no. 2 is un-necessary/improper party, in light of the rules ibid and on the written direction of the Worthy Chairman the above mentioned respondent number be deleted/struck out from the list of respondent.

No. 853 /Inst./2024/KPST,

Dt. 01/10 /2024.

Amratillo
ADDITIONAL REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Ali Gohar Durrani Adv.
High Court at Peshawar.

Re Submitted,

*Sir Remove your objection
Please Re Submitted*

*Please your objection has
been removed that the Notifier Annex C
is relevant of My case*

Please put up before the bench

Amratillo
3/10/24

IN THE
HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. 1751 /2024

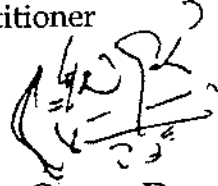
Assoc.Prof Syed Zahir Shah Vs. Govt. of KP &
others

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Through

Petitioner



(ALI GOHAR DURRANI)

Advocate Supreme Court

0332-9297427

khaneliegohar@yahoo.com

Shah | Durrani | Khattak

(a registered law firm)

House No. 231-A, New Shami Road,
Peshawar.

(1)

IN THE
HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. 1751 /2024

Assoc. Prof. Zahir Shah (BS-19),
Associate Professor/ Principal at Government Degree College,
Ring Road , Peshawar , Khyber Pakhtunkhwa.

..... Appellant

Versus

1. The Government of Khyber Pakhtunkhwa,
Through Chief Secretary Government of Khyber Pakhtunkhwa,
Civil Secretariat Peshawar.
2. Higher Education Department, Government of Khyber Pakhtunkhwa,
Through Secretary Higher Education Department,
Civil Secretariat, Peshawar.
3. Syed Ishtiaq Hussain
Additional Director (Academics), Directorate of Higher Education
(BS-19)

..... Respondents

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICES TRIBUNAL ACT, 1974 READ WITH ALL OTHER LAWS ENABLING JURISDICTION OF THIS HONORABLE TRIBUNAL UNDER ARTICLE 212 OF THE CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN, 1973, TO WITHDRAW THE POSTING/ TRANSFER ORDERS DATED 17-07-2023 & DATED 28-06-2024 WHEREBY THE APPELLANT HAS BEEN TRANSFERRED ILLEGALLY AND UNLAWFULLY FROM THE POST OF ADDITIONAL DIRECTOR (ACADAMEICS DIRECTORATE OF HIGHER EDUCATION) TO ASSOICATE PROFESSOR GDC

RESPECTFULLY SUBMITTED:

The Appellant most earnestly request to submit as under:

2

That the Appellant is working against the designation mentioned in the heading of the petition in the Government Degree College Ring Road, Peshawar. The Appellant is a Civil Servant, and is before this Honorable tribunal for redress of his grievance in respect of transfer of the appellant, which being part and parcel of the terms and conditions of service, gives exclusive jurisdiction to this honorable tribunal for adjudication of the matter under the Constitution of Pakistan, 1973, the Khyber Pakhtunkhwa Civil Servants Act, 1973, the Khyber Pakhtunkhwa Service Tribunal Act, 1974 and the Rules made under the two Acts.

BRIEF FACTS:

1. That the Appellant, while faithfully serving as an Associate Professor at Government Degree College Badaber, Peshawar, was abruptly transferred to the Directorate of Higher Education, Khyber Pakhtunkhwa, Peshawar, against the vacant post of Additional Director (Academics) vide Transfer Order No. SO(C-III)/HED/1-3/2023/Posting/Transfer, dated 17-07-2023.
(Copy of the transfer order is annexed herewith as *Annexure A*)
2. That in the capacity of Additional Director (Academics), the Appellant performed his duties with unwavering dedication, zeal, and passion, earning the trust and respect of his superiors. His tireless efforts were met with no adverse remarks or complaints, reflecting his steadfast commitment to his role.
3. That despite the impugned transfer order, the Appellant continued to execute his responsibilities with complete devotion and integrity, maintaining a flawless service record devoid of any complaints or deficiencies. His professional conduct has always been exemplary, marked by commendable performance.
4. That the Appellant, having devoted decades of his life to serving the Provincial Government, has consistently maintained an impeccable service record, underscored by an unimpeachable reputation and unquestionable integrity. His unyielding commitment to public service has never given cause for even the slightest grievance. Throughout his apolitical career, the Appellant has cultivated a spotless track record, earning him recognition as one of the most dependable and dedicated public servants within the Department of Higher Education.
5. That despite the Appellant's impeccable service, he was unjustly transferred from his post as Additional Director (Academics),

Directorate of Higher Education, Peshawar, to Government Degree College, Ring Road, Peshawar, as Associate Professor/Principal, vide Notification No. SO(C-11)/HED/2-5/2024/Syed Ishtiaq Hussain, dated 20-06-2024.

(Copy of the transfer notification dated 20-06-2024 is annexed herewith as *Annexure B*)

6. That according to the prevailing transfer/posting policy, the tenure of a posting in settled areas is clearly prescribed as two years. However, the Appellant, who had only served for 11 months, was prematurely transferred in a manner that flagrantly disregards the established policy. This premature transfer constitutes an egregious violation of his rights and professional standing.
7. That the impugned transfer order No. SO(C-11)/HED/2-5/2024/Syed Ishtiaq Hussain, dated 20-06-2024, references the transfer of an Associate Professor as stated in serial No. 1 of the order. This Associate Professor was initially appointed as Director HEMIS Cell on 06-09-2019, vide Notification No. SO(G)/HE/PF/Syed Ishtiaq Hussain/2017, and further affirmed by Order No. SO(G)/HE/PF/1938-40/Ishtiaq Hussain, dated 23-01-20.
8. That the Appellant, having more than 14 years of service in his current position, is entitled to protection under the government's own transfer/posting policy, which explicitly states that no government servant with such an extensive tenure should be transferred without clear and justified reasons. The Appellant, being on the verge of completing 20 years of service—thus approaching statutory tenure protection—should not have been treated in such an unfair and high-handed manner.
9. That despite the Appellant's primary appointment as a teacher, the respondent in this case has held non-teaching positions for over five years, in blatant disregard of the relevant policies. This flagrant disregard for the policy was exacerbated by the decision to transfer the Associate Professor as Additional Director (Academics), thereby unlawfully displacing the Appellant, who had not yet completed the mandatory two-year tenure. The action represents an obvious injustice, robbing the Appellant of his rightful position.
10. That the Higher Education Department, in a grossly misleading manner, falsely portrayed the Associate Professor as "awaiting

(4)

posting" while submitting the transfer summary to the Chief Minister. In contrary , the department had issued Order No. SO(C-II)/HED/2-5/2024/Syed Ishtiaq Hussain, dated 27-05-2024, temporarily transferring the Associate Professor to Government Degree College, Ring Road, Peshawar, where he received his salary for May 2024 without performing any duties. This act of deceit and manipulation constitutes a blatant violation of Clause-VIII of the Transfer/Posting Policy, which strictly prohibits such irregular postings and salary disbursements.(Copy of the order dated 27-05-2024 is annexed herewith as Annexure C)

11. That the Appellant, in an attempt to rectify this injustice, filed an appeal to the Chief Minister on 08-05-2024, challenging the aforementioned transfer. Despite the lapse of the statutory period of 90 days, the appeal remains unresolved, causing undue stress and frustration to the Appellant. This inaction amounts to a clear violation of the Appellant's right to redress under the Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986.

(Copy of the departmental appeal dated 21-06-2024 is annexed herewith as Annexure D)

12. That the Appellant, being deeply aggrieved and emotionally distressed by this unlawful, unjust, and arbitrary transfer, now humbly approaches this Honorable Tribunal, seeking justice on the following grounds, inter alia:

Grounds- Submissions in Law:

- a. Because the Appellant is an aggrieved person within the meaning of Article 212 of the constitution of the Islamic Republic of Pakistan 1973 in respect of his terms and conditions of service, and is by law required to submit a representation within seven days of the transfer orders and are required to be disposed of within 15days, per the Posting and transfer policy of Civil Servants which lay as under:

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.

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- i) Pre-mature posting/transfer or posting transfer in violation of the provisions of this policy.
- b. **Because** the Fundamental Rights of the Appellant have been violated in relation to Article 4, 8, 9, 18 & 25 of the Constitution of the Islamic Republic of Pakistan, 1973. This Honorable court being the custodian of the Rights of citizens of Pakistan as enshrined in the law of the land made in furtherance of the rights and the protections afforded by the Constitution of Islamic Republic of Pakistan, 1973, is why the Appellant seek the redressal of his grievances.
- c. Because the decision of transfer is a nullity in the eyes of the law as it goes in direct negation of the provisions of law. Furthermore, when the base is wrong and rooted in a nullity any superstructure built on the base is wrong. The principle laid down through PLD 1958 SC 104 has been reiterated in PLD 2022 SC 119, 2021 SCMR 637, PLD 2007 SCMR 1835, which essentially forms part of our jurisprudence.
- d. **Because** The Rules designate certain posts as 'tenure posts' (rule 22 read with Schedule IV of the Rules) and prescribe a period of three years for an incumbent to serve on such posts. Such prescribed tenure may therefore be categorized as the ideal duration for which a civil servant should serve at a particular post. The post of the appellant is a tenure post, yet he has been transferred from his posting before the tenure was complete. Thus, the appellant having not been allowed to complete his normal tenure and thus the order impugned is violation of transfer posting policy of the Government and the judgment of the apex court reported in PLD 1995 SC Page No 530 and PLD 2013 Supreme Court Page No 195.
- e. Because the recently the august Supreme Court of Pakistan has in its Judgment reported in 2013 PLD SC 195, decided a point of law and while committing upon the transfer and posting and other related matters of service held as under:-
- (i) Appointments, Removals and Promotions:- Appointments, removals and promotions must be made in accordance with the law and the rules made there under; where no such law or rule exists and the matter has been left to discretion, such discretion must be exercised in a structured, transparent and reasonable manner and in the public interest.
- (ii) Tenure, posting and transfer: When the ordinary tenure for a posting has

been specified in the law or rules made there under; such tenure must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable.

(iii) Illegal Orders: Civil servants owe their first and foremost allegiance to the law and the Constitution. They are not bound to obey orders from superiors which are illegal or are not in accordance with accepted practices and rule, based norms; instead, in such situations, they must record their opinion and; if necessary, dissent.

(iv) O.S.D Officers should not be posted as OSD except for compelling reasons, which must be recorded in writing and are judicially reviewable. If at all an Officer is to be posted as OSD, such posting should be for the minimum period possible and if there is a disciplinary inquiry going on against him, such inquiry must be completed as the earliest.

f. Because Section 10 of the Khyber Pakhtunkhwa Civil Servants Act states as follows:

"Every civil servant shall be liable to serve anywhere within or outside the Province in any post under the Federal Government, or any Provincial Government or local authority, or a an corporation or body set up or established by any such Government:

Provided that nothing contained in this section shall apply to a civil servant recruited specifically to serve in a particular area or region:

Provided further that where a civil servant is required to serve in a post outside his service or cadre, his terms and conditions of service as to his pay shall not be less favourable than those to which he would have been entitled if he had been so required to serve."

The aforesaid section does not empower the Government to cut short the normal tenure of a posted/transferred civil servant, and particularly without assigning any reason. In the case of Mahmood Akhtar Naqvi (Anita Turab case) (above) this Court held: "16. In the Hajj Corruption Case, the court reiterated its earlier ruling in Zahid Akhtar v. Government of Punjab (PLD 1995 SC 530), where it had been held that

"the normal period of posting of a Government servant at a station, according to Rule 21 of the Rules of Business is three years, which

has to be followed in the ordinary circumstances, unless for reasons or exigencies of service a transfer before expiry of the said period becomes necessary in the opinion of the competent authority." Furthermore, with regard to transfers of civil servants, this Court has stated that transfers by political figures which are not legally sustainable. *Farrukh gulzar v. Secretary Local Government and Rural Development Department, Lahore and 2 others* (1998 SCMR 2222). These are principles of law enunciated by this court and are to be followed in terms of Article 189 of the Constitution. We, however, repeatedly come across violations of such principles. This unnecessarily leads to litigation which, in turn, clogs Courts and Service Tribunals."

- g. Because in-fact there exist no exigencies of service nor can the order of transfer be termed as in the public interest rather the same has been issued in violation of the transfer and posting policy and in ban period.
- h. Because the principles of legitimate expectation as expounded by the Honorable Superior Courts of Pakistan and recently reiterated in 2022 SCMR 694 is seriously violated in the instant case.
- i. Because the Appellant has not been treated in accordance with law, and his right secured and guaranteed under Law and Constitution have been violated.
- j. Because the Appellant has served the department with utmost honesty and clarity and must not be deprived of their due rights.
- k. Because the Rights of the Appellant are secured under Article 8, and the entirety of Part II of the Constitution of the Islamic Republic of Pakistan, and its redress falls solely within the ambit of Article 212 of the Constitution of the Islamic Republic of Pakistan, 1973.
- l. Because the Appellant has suffered for no fault of their own and the entire premise of the case is based on the illegality of the respondents to the complete detriment of the Appellants.
- m. Because the Judgment of the Honorable Supreme Court reported as 2013 SCMR 1205 has been specifically violated. The same warrants action from this Honorable Tribunal.
- n. Because the Appellant crave for leave to add further grounds at the time of his oral arguments before this Hon'ble Court highlighting further contraventions of the provisions of the Constitution & Laws.

PRAYER:

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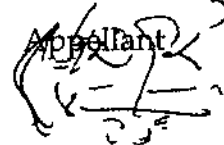
In view of the above, it is humbly prayed that this honorable Court may graciously be pleased to:

- a) Declare that the Impugned letter & Notification Posting/Transfer, dated 20-06-2024 is issued illegally, unlawfully and without lawful authority and coram non judice;
- b) Set aside the "Impugned letter & Notification" dated Posting/Transfer, dated 20-06-2024 as being illegal, unlawful and without lawful authority in circumstances of the Appellant and instant case.
- c) Any other relief, in favor of the Petitioner, deemed just and appropriate.
- d) Costs throughout.

Interim Relief:

May it please this honorable court to so kindly suspend the operation of the Impugned letter dated Posting/Transfer, 20-06-2024 till the final disposal of instant writ petition.

Through

Appellant


(ALI GOHAR DURRANI)
Advocate High Court
0332-9297427

khaneliegohar@yahoo.com

Shah | Durrani | Khattak

(a registered law firm)

House No. 231-A, New Shami Road,
Peshawar.

Appeal No. _____/2024

Prof. Zahir shah Vs. Govt. of KP & others

AFFIDAVIT

I, Syed Zahir Shah, Associate professor, Khyber Pakhtunkhwa do hereby solemnly declare and affirm on oath:-

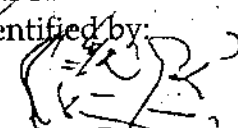
That the enclosed writ petition has been drafted under my instructions.

That I am personally conversant with the facts and circumstances of the case as contained therein. That the facts and circumstances mentioned in the enclosed writ petition are true and correct to the best of my knowledge and belief.

Deponent

CNIC#

Identified by:


ALI GOHAR DURRANI
Advocate Supreme Court

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IN THE
HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. _____/2024

Prof. Zahir Shah Vs. Govt. of KP & others

Memo Of Address:

Petitioner:

Assoc. Prof. Syed Zahir (BS-19),
Associate professor at Government Degree College, Ring Road ,
Peshawar , Khyber Pakhtunkhwa

Respondents:

1. Government of Khyber Pakhtunkhwa
Through Chief Secretary to the Government of Khyber
Pakhtunkhwa,
Civil Secretariat, Peshawar.
2. Higher Education Department, Government of Khyber
Pakhtunkhwa.
Through Secretary Higher Education Department,
Civil Secretariat, Peshawar.
3. Syed Ishtiaq Hussain
Additional Director (Academics), Directorate of Higher Education
(BS-19)

.....Respondents

Appellant

Through

Ali Gohar Durrani
Advocate Supreme
Court.

IN THE
HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. _____/2024

Assoc. Prof Zahir Shah Vs. Govt. of KP & others

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Petitioner

Through

(ALI GOHAR DURRANI)

Advocate Supreme Court

0332-9297427

khaneliegohar@yahoo.com

Shah | Durrani | Khattak

(a registered law firm)

House No. 231-A, New Shami Road,

Peshawar.

(1)

IN THE
HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. _____/2024

Assoc. Prof. Zahir Shah (BS-19),
Associate professor/Principal at Government Degree College,
Ring Road, Peshawar, Khyber Pakhtunkhwa.

..... Appellant

Versus

1. The Government of Khyber Pakhtunkhwa,
Through Chief Secretary Government of Khyber Pakhtunkhwa,
Civil Secretariat Peshawar.
2. Establishment Department, Govt. of Khyber Pakhtunkhwa.
Through Secretary Establishment, Government of Khyber
Pakhtunkhwa
Civil Secretariat, Peshawar.
3. Higher Education Department, Government of Khyber
Pakhtunkhwa,
Through Secretary Higher Education Department,
Civil Secretariat, Peshawar.
4. Syed Ishtiaq Hussain
Additional Director (Academics), Directorate of Higher Education.
(BS-19)

..... Respondents

APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL ACT, 1974 READ
WITH ALL OTHER LAWS ENABLING JURISDICTION OF
THIS HONORABLE TRIBUNAL UNDER ARTICLE 212 OF
THE CONSTITUTION OF THE ISLAMIC REPUBLIC OF
PAKISTAN, 1973, TO WITHDRAW THE POSTING/
TRANSFER ORDERS DATED 20-06-2024 WHEREBY THE
APPELLANT HAS BEEN TRANSFERRED ILLEGALLY AND
UNLAWFULLY FROM THE POST OF ADDITIONAL
DIRECTOR (ACADAMEICS DIRECTORATE OF HIGHER
EDUCATION) TO ASSOCIATE PROFESSOR/PRINCIPAL
GDC, RING ROAD

RESPECTFULLY SUBMITTED:

The Appellant most earnestly request to submit as under:

That the Appellant is working against the designation mentioned in the heading of the petition in the Government Degree College Ring Road, Peshawar. The Appellant is a Civil Servant, and is before this Honorable tribunal for redress of his grievance in respect of transfer of the appellant, which being part and parcel of the terms and conditions of service, gives exclusive jurisdiction to this honorable tribunal for adjudication of the matter under the Constitution of Pakistan, 1973, the Khyber Pakhtunkhwa Civil Servants Act, 1973, the Khyber Pakhtunkhwa Service Tribunal Act, 1974 and the Rules made under the two Acts.

BRIEF FACTS:

1. That the Appellant, while faithfully serving as an Associate Professor at Government Degree College Badaber, Peshawar, was abruptly transferred to the Directorate of Higher Education, Khyber Pakhtunkhwa, Peshawar, against the vacant post of Additional Director (Academics) vide Transfer Order No. SO(C-III)/HED/1-3/2023/Posting/Transfer, dated 17-07-2023.
(Copy of the transfer order is annexed herewith as *Annexure A*)
2. That in the capacity of Additional Director (Academics), the Appellant performed his duties with unwavering dedication, zeal, and passion, earning the trust and respect of his superiors. His tireless efforts were met with no adverse remarks or complaints, reflecting his steadfast commitment to his role.
3. That despite the impugned transfer order, the Appellant continued to execute his responsibilities with complete devotion and integrity, maintaining a flawless service record devoid of any complaints or deficiencies. His professional conduct has always been exemplary, marked by commendable performance.
4. That the Appellant, having devoted decades of his life to serving the Provincial Government, has consistently maintained an impeccable service record, underscored by an unimpeachable reputation and unquestionable integrity. His unyielding commitment to public service has never given cause for even the slightest grievance. Throughout his apolitical career, the Appellant has cultivated a spotless track record, earning him recognition as

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one of the most dependable and dedicated public servants within the Department of Higher Education.

5. That despite the Appellant's impeccable service, he was unjustly transferred from his post as Additional Director (Academics), Directorate of Higher Education, Peshawar, to Government Degree College, Ring Road, Peshawar, as Associate Professor/Principal, vide Notification No. SO(C-11)/HED/2-5/2024/Syed Ishtiaq Hussain, dated 20-06-2024.
(Copy of the transfer notification dated 20-06-2024 is annexed herewith as *Annexure B*)
6. That according to the prevailing transfer/posting policy, the tenure of a posting in settled areas is clearly prescribed as two years. However, the Appellant, who had only served for 11 months, was prematurely transferred in a manner that flagrantly disregards the established policy. This premature transfer constitutes an egregious violation of his rights and professional standing.
7. That the impugned transfer order No. SO(C-11)/HED/2-5/2024/Syed Ishtiaq Hussain, dated 20-06-2024, references the transfer of an Associate Professor as stated in serial No. 1 of the order. This Associate Professor was initially appointed as Director HEMIS Cell on 06-09-2019, vide Notification No. SO(G)/HE/PF/Syed Ishtiaq Hussain/2017, and further affirmed by Order No. SO(G)/HE/PF/1938-40/Ishtiaq Hussain, dated 23-01-2020.
(Copy of the order dated 23-01-2020 is annexed herewith as *Annexure C*)
8. That the Appellant, having more than 25 years of service in his current position, is entitled to protection under the government's own transfer/posting policy, which explicitly states that no government servant with such an extensive tenure should be transferred without clear and justified reasons. The Appellant, being on the verge of completing 25 years of service—thus approaching statutory tenure protection—should not have been treated in such an unfair and high-handed manner.
9. That despite the Appellant's primary appointment as a teacher, the respondent in this case has held non-teaching positions for over eight years, in blatant disregard of the relevant policies. This flagrant disregard for the policy was exacerbated by the decision to

transfer the Associate Professor as Additional Director (Academics), thereby unlawfully displacing the Appellant, who had not yet completed the mandatory two-year tenure. The action represents an obvious injustice, robbing the Appellant of his rightful position.

10. That the Higher Education Department, in a grossly misleading manner, falsely portrayed the Associate Professor as "awaiting posting" while submitting the transfer summary to the Chief Minister. In contrary, the department had issued Order No. SO(C-II)/HED/2-5/2024/Syed Ishtiaq Hussain, dated 27-05-2024, temporarily transferring the Associate Professor to Government Degree College, Ring Road, Peshawar, where he received his salary for May 2024 without performing any duties. This act of deceit and manipulation constitutes a blatant violation of Clause-VIII of the Transfer/Posting Policy, which strictly prohibits such irregular postings and salary disbursements. (Copy of the order dated 27-05-2024 is annexed herewith as Annexure D)

11. That the Appellant, in an attempt to rectify this injustice, filed an appeal to the Chief Minister on 21-06-2024, challenging the aforementioned transfer. Despite the lapse of the statutory period of 90 days, the appeal remains unresolved, causing undue stress and frustration to the Appellant. This inaction amounts to a clear violation of the Appellant's right to redress under the Khyber Pakhtunkhwa Civil Servants (Appeal) Rules, 1986. (Copy of the departmental appeal dated 21-06-2024 is annexed herewith as Annexure E)

12. That the Appellant, being deeply aggrieved and emotionally distressed by this unlawful, unjust, and arbitrary transfer, now humbly approaches this Honorable Tribunal, seeking justice on the following grounds, inter alia:

Grounds- Submissions in Law:

- a. Because the Appellant is an aggrieved person within the meaning of Article 212 of the constitution of the Islamic Republic of Pakistan 1973 in respect of his terms and conditions of service, and is by law required to submit a representation within seven days of the transfer-orders and are required to be disposed of within 15days,

per the Posting and transfer policy of Civil Servants which lay as under:

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 posting/transfer or posting transfer in violation of the provisions of this policy.
- b. Because the Fundamental Rights of the Appellant have been violated in relation to Article 4, 8, 9, 18 & 25 of the Constitution of the Islamic Republic of Pakistan, 1973. This Honorable court being the custodian of the Rights of citizens of Pakistan as enshrined in the law of the land made in furtherance of the rights and the protections afforded by the Constitution of Islamic Republic of Pakistan, 1973, is why the Appellant seek the redressal of his grievances.
- c. Because the decision of transfer is a nullity in the eyes of the law as it goes in direct negation of the provisions of law. Furthermore, when the base is wrong and rooted in a nullity any superstructure built on the base is wrong. The principle laid down through PLD 1958 SC 104 has been reiterated in PLD 2022 SC 119, 2021 SCMR 637, PLD 2007 SCMR 1835, which essentially forms part of our jurisprudence.
- d. Because The Rules designate certain posts as 'tenure posts' (rule 22 read with Schedule IV of the Rules) and prescribe a period of three years for an incumbent to serve on such posts. Such prescribed tenure may therefore be categorized as the ideal duration for which a civil servant should serve at a particular post. The post of the appellant would be for a tenure, yet he has been transferred from his posting before the completion of the tenure. Thus, the appellant having not been allowed to complete his normal tenure and thus the order impugned is violation of transfer posting policy of the Government and the judgment of the apex court reported in PLD 1995 SC Page No 530 and PLD 2013 Supreme Court Page No 195.
- e. Because the recently the august Supreme Court of Pakistan has in its Judgment reported in 2013 PLD SC 195, decided a point of law and while committing upon the transfer and posting and other related matters of service held as under:-

(i) Appointments, Removals and Promotions:- Appointments, removals and promotions must be

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made in accordance with the law and the rules made there under; where no such law or rule exists and the matter has been left to discretion, such discretion must be exercised in a structured, transparent and reasonable manner and in the public interest.

(ii) Tenure, posting and transfer: When the ordinary tenure for a posting has been specified in the law or rules made there under; such tenure must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable.

(iii) Illegal Orders: Civil servants owe their first and foremost allegiance to the law and the Constitution. They are not bound to obey orders from superiors which are illegal or are not in accordance with accepted practices and rule, based norms; instead, in such situations, they must record their opinion and; if necessary, dissent.

(iv) O.S.D Officers should not be posted as OSD except for compelling reasons, which must be recorded in writing and are judicially reviewable. If at all an Officer is to be posted as OSD, such posting should be for the minimum period possible and if there is a disciplinary inquiry going on against him, such inquiry must be completed as the earliest.

f. Because Section 10 of the Khyber Pakhtunkhwa Civil Servants Act states as follows:

"Every civil servant shall be liable to serve anywhere within or outside the Province in any post under the Federal Government, or any Provincial Government or local authority, or a corporation or body set up or established by any such Government:

Provided that nothing contained in this section shall apply to a civil servant recruited specifically to serve in a particular area or region: Provided further that where a civil servant is required to serve in a post outside his service or cadre, his terms and conditions of service

as to his pay shall not be less favourable than those to which he would have been entitled if he had been so required to serve."

The aforesaid section does not empower the Government to cut short the normal tenure of a posted/transferred civil servant, and particularly without assigning any reason. In the case of Mahmood Akhtar Naqvi (Anita Turab case) (above) this Court held: "16. In the Hajj Corruption Case, the court reiterated its earlier ruling in Zahid Akhtar v. Government of Punjab (PLD 1995 SC 530), where it had been held that

"the normal period of posting of a Government servant at a station, according to Rule 21 of the Rules of Business is three years, which has to be followed in the ordinary circumstances, unless for reasons or exigencies of service a transfer before expiry of the said period becomes necessary in the opinion of the competent authority." Furthermore, with regard to transfers of civil servants, this Court has stated that transfers by political figures which are not legally sustainable. Farrukh gulzar v. Secretary Local Government and Rural Development Department, Lahore and 2 others (1998 SCMR 2222). These are principles of law enunciated by this court and are to be followed in terms of Article 189 of the Constitution. We, however, repeatedly come across violations of such principles. This unnecessarily leads to litigation which, in turn, clogs Courts and Service Tribunals."

- g. Because in-fact there exist no exigencies of service nor can the order of transfer be termed as in the public interest rather the same has been issued in violation of the transfer and posting policy and in ban period.
- h. Because the principles of legitimate expectation as expounded by the Honorable Superior Courts of Pakistan and recently reiterated in 2022 SCMR 694 is seriously violated in the instant case.
- i. Because the Appellant has not been treated in accordance with law, and his right secured and guaranteed under Law and Constitution have been violated.
- j. Because the Appellant has served the department with utmost honesty and clarity and must not be deprived of their due rights.
- k. Because the Rights of the Appellant are secured under Article 8, and the entirety of Part II of the Constitution of the Islamic Republic of Pakistan, and its redress falls solely within the ambit of Article 212 of the Constitution of the Islamic Republic of Pakistan, 1973.
- l. Because the Appellant has suffered for no fault of their own and the entire premise of the case is based on the illegality of the respondents to the complete detriment of the Appellants.

8

m. Because the Judgment of the Honorable Supreme Court reported as 2013 SCMR 1205 has been specifically violated. The same warrants action from this Honorable Tribunal.

n. Because the Appellant craved for leave to add further grounds at the time of his oral arguments before this Hon'ble Court highlighting further contraventions of the provisions of the Constitution & Laws.

PRAYER:

In view of the above, it is humbly prayed that this honorable Court may graciously be pleased to:

- a) Declare that the Impugned letter & Notification Posting/Transfer, dated 20-06-2024 is issued illegally, unlawfully and without lawful authority and coram non iudice;
- b) Set aside the "Impugned letter & Notification" dated Posting/Transfer, dated 20-06-2024 as being illegal, unlawful and without lawful authority in circumstances of the Appellant and instant case.
- c) Any other relief, in favor of the Petitioner, deemed just and appropriate.
- d) Costs throughout.

Interim Relief:

May it please this honorable court to so kindly suspend the operation of the Impugned letter dated Posting/Transfer, 20-06-2024 till the final disposal of instant writ petition.

Through

Appellant

(ALI GOHAR DURRANI)
Advocate Supreme Court
0332-9297427
khaneliogohar@yahoo.com
Shah | Durrani | Khattak
(a registered law firm)
House No. 231-A, New Shami Road,
Peshawar.

9

IN THE
HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

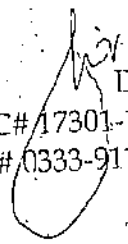
Appeal No. _____/2024

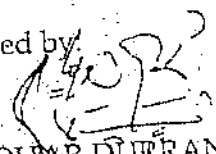
Syed Zahir shah Vs. Govt. of KP & others

AFFIDAVIT

I, Syed Zahir Shah, Associate professor/Principal at Government Degree College, Ring Road, Peshawar, Khyber Pakhtunkhwa do hereby solemnly declare and affirm on oath:-

That the enclosed writ petition has been drafted under my instructions. That I am personally conversant with the facts and circumstances of the case as contained therein. That the facts and circumstances mentioned in the enclosed writ petition are true and correct to the best of my knowledge and belief.

 Deponent
CNIC# 17301-1492679-7
Cell # 0333-9118158

Identified by 
ALI GOHAR DURRANI
Advocate Supreme Court

10

IN THE
HONOURABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. _____/2024

Zahir Shah Vs. Govt. of KP & others

Memo Of Address:

Petitioner:

Assoc. Prof. Zahir Shah (BS-19),

Associate professor at Government Degree College, Ring Road,
Peshawar, Khyber Pakhtunkhwa

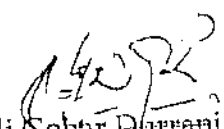
Respondents:

1. Government of Khyber Pakhtunkhwa
Through Chief Secretary to the Government of Khyber
Pakhtunkhwa,
Civil Secretariat, Peshawar.
2. Establishment Department, Government of Khyber
Pakhtunkhwa,
Through Secretary Establishment Department,
Civil Secretariat, Peshawar.
3. Higher Education Department, Government of Khyber
Pakhtunkhwa.
Through Secretary Higher Education Department,
Civil Secretariat, Peshawar.
4. Syed Ishtiaq Hussain
Additional Director, Higher Education Department, Government
of Khyber Pakhtunkhwa.

.....Respondents

Appellant

Through


Ali Gohar Durrani
Advocate Supreme
Court.



GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT

Dated Peshawar the 17th July, 2023

NOTIFICATION

NO.SO(C-III)/HED/1-3/2023/Posting/Transfer: Consequent upon approval/NOC of Election Commission of Pakistan vide letter No.F.10(1)/2023-Elec-II dated 14.07.2023, posting/transfer of the following teaching staff of college cadre in Higher Education Department are hereby ordered, with immediate effect, in the best public interest:-

S#	Name/Designation/BPS	From	To	Remarks
1.	Ms. Shabana Akbar, Associate Professor of Home Economics (BS-19)	GGDC Dabgari, Peshawar	As Additional Director (Female), Directorate of Higher Education	AVP
2.	Mr. Zahir Shah, Associate Professor of Geography (BS- 19)	GDC Badaber, Peshawar	As Additional Director (Academics), Directorate of Higher Education	AVP

-Sd-
SECRETARY
HIGHER EDUCATION DEPARTMENT

ENDST: NO. & DATE EVEN:

Copy of the above is forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director Higher Education, Khyber Pakhtunkhwa, Peshawar.
3. Directors, Regional Directorates of Higher Education.
4. Director-IT, HEMIS Cell, Higher Education Department.
5. Principals of Govt. Colleges, concerned.
6. PS to Secretary, Higher Education Department.
7. Officers concerned.
8. Master File.

(SAMIA JABEEN)
Section Officer (Colleges-III)

17/07/23

**HIGHER EDUCATION, ARCHIVES & LIBRARIES
DEPARTMENT**

Dated Peshawar

the June 20, 2024

NOTIFICATION

NO-SO(C-II)/HED/2-5/2024/Syed Ishtiaq Hussain: The Competent Authority (Chief Minister, Khyber Pakhtunkhwa) is pleased to order posting/transfer of the following Associate Professors

(BS-19) of Male College Cadre of Higher Education with immediate effect in the best public

interest.

S#	Name of Officers	FROM	To
1.	Syed Ishtiaq Hussain, Associate Professor of Computer Science (BS-19)	Awaiting posting at Higher Education Department	Additional Director (Academics) Directorate of Higher Education under section 10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 vice Sr.No.02
2.	Syed Zahir Shah, Associate Professor (BS-19)	Additional Director (Academics), Directorate of Higher Education	Associate Professor, /Principal, GDC Ring Road, Peshawar under Section-10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 against the vacant post

SECRETARY TO GOVT

OF

KHYBER PAKHTUNKHWA HIGHER

EDUCATION DEPARTMENT

ENDST: NO. & DATE EVEN:

Copy is forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director, Higher Education, Khyber Pakhtunkhwa,
Peshawar
3. Director-IT, HEMIS Cell, Higher Education Department
4. Principal, GDC Ring Road, Peshawar.
5. PS to Minister, Higher Education, Khyber Pakhtunkhwa.
6. PS to Secretary Higher Education Department.
7. PS to Special Secretary, Higher Education Department.
8. Associate Professors concerned.
9. Master File.



HIGHER EDUCATION, ARCHIVES & LIBRARIES DEPARTMENT

Dated Peshawar the June 20, 2024

NOTIFICATION

Amended

(B)

NO.S0(C-II)/HED/2-5/2024/Syed Ishtiaq Hussain: The Competent Authority (Chief Minister, Khyber Pakhtunkhwa) is pleased to order posting/transfer of the following Associate Professors (BS-19) of Male College Cadre of Higher Education with immediate effect in the best public interest.

S#	Name of Officers	From	To
1.	Syed Ishtiaq Hussain, Associate Professor of Computer Science Department (BS-19)	Awaiting posting at Higher Education Department	Additional Director (Academics), Directorate of Higher Education under Section-10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 vice S.No.02
2.	Syed Zahir Shah, Associate Professor (BS-19)	Additional Director (Academics), Directorate of Higher Education	Associate Professor /Principal, GDC Ring Road, Peshawar under Section-10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 against the vacant post.

SECRETARY TO
GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION DEPARTMENT

ENDST: NO. & DATE EVEN:

Copy is forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director, Higher Education, Khyber Pakhtunkhwa, Peshawar.
3. Director-IT, HEMIS Cell, Higher Education Department.
4. Principal, GDC Ring Road, Peshawar.
5. PS to Minister, Higher Education, Khyber Pakhtunkhwa.
6. PS to Secretary Higher Education Department.
7. PS to Special Secretary, Higher Education Department.
8. Associate Professors concerned.
9. Master File.

Shaukat

**HIGHER EDUCATION, ARCHIVES & LIBRARIES
DEPARTMENT**

Dated Peshawar

the June 20, 2024
NOTIFICATION

NO-SO(C-II)/HED/2-5/2024/Syed Ishtiaq Hussain: The Competent Authority (Chief Minister, Khyber Pakhtunkhwa) is pleased to order posting/transfer of the following Associate Professors

(BS-19) of Male College Cadre of Higher Education with immediate effect in the best public

interest.

S#	Name of Officers	FROM	To
1.	Syed Ishtiaq Hussain, Associate Professor of Computer Science (BS-19)	Awaiting posting at Higher Education Department	Additional Director (Academics) Directorate of Higher Education under section 10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 vice Sr.No.02
2.	Syed Zahir Shah, Associate Professor (BS-19)	Additional Director (Academics), Directorate of Higher Education	Associate Professor, /Principal. GDC Ring Road, Peshawar under Section-10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 against the vacant post

SECRETARY TO GOVT

OF

KHYBER PAKHTUNKHWA HIGHER

EDUCATION DEPARTMENT

ENDST: NO. & DATE EVEN:

Copy is forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director, Higher Education, Khyber Pakhtunkhwa, Peshawar
3. Director-IT, HEMIS Cell, Higher Education Department
4. Principal, GDC Ring Road, Peshawar.
5. PS to Minister, Higher Education, Khyber Pakhtunkhwa.
6. PS to Secretary Higher Education Department.
7. PS to Special Secretary, Higher Education Department.
8. Associate Professors concerned.
9. Master File.

HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT

Dated Peshawar the June 20, 2024

Annex (C)

(13)

NOTIFICATION

NO.SO(C-II)/HED/2-5/2024/Syed Ishtiaq Hussain: The Competent Authority, (Chief Minister, Khyber Pakhtunkhwa) is pleased to order posting/transfer of the following Associate Professors (BS-19) of Male College Cadre of Higher Education with immediate effect in the best public interest.

S#	Name of Officers	From	To
1.	Syed Ishtiaq Hussain, Associate Professor of Computer Science Department (BS-19)	Awaiting posting at Higher Education Department	Additional Director (Academics), Directorate of Higher Education under Section-10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 vice Sr.No.02
2.	Syed Zahir Shah, Associate Professor (BS-19)	Additional Director (Academics), Directorate of Higher Education	Associate Professor /Principal, GDC Ring Road, Peshawar under Section-10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 against the vacant post

SECRETARY TO
GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION DEPARTMENT

ENDST: NO. & DATE EVEN:

Copy is forwarded to the:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director, Higher Education, Khyber Pakhtunkhwa, Peshawar.
3. Director-IT, HEMIS Cell, Higher Education Department
4. Principal, GDC Ring Road, Peshawar.
5. PS to Minister, Higher Education, Khyber Pakhtunkhwa.
6. PS to Secretary Higher Education Department.
7. PS to Special Secretary, Higher Education Department.
8. Associate Professors concerned.
9. Master File.

Shabbaz



LIBRARIES DEPARTMENT

Dated Peshawar the May 27, 2024

(14) Ameer D

NOTIFICATION

No.SO(C-II)/HED/1-10/2024/Syed. Ishtiaq Hussain/C.S. Syed Ishtiaq Hussain, Associate Professor of Computer Science (BS-19), is hereby temporarily adjusted at Govt. Degree College Ring Road, Peshawar w.e.f 22.04.2024 in the best public interest.

-Sd-
SECRETARY TO
GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION DEPARTMENT

Endst: No. & Date Even.

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director Higher Education, Khyber Pakhtunkhwa Peshawar.
3. Principal, Govt. Degree College Ring Road, Peshawar.
4. PS to Secretary, Higher Education Department.
5. Associate Professor concerned.
6. Master file.

(MUHAMMAD SHAHBAZ KHAN)
Section Officer (Colleges-II)

Section Officer (Colleges-II)
Govt. Degree College
Ring Road Peshawar



DIRECTORATE OF HIGHER EDUCATION

KHYBER PAKHTUNKHWA

Rano Garhi, Peshawar

Tel # 091-2650025 / 9330496

E-mail:- dhekpkpesh@gmail.com Facebook.com/dhekppeshawar Twitter.com/dhekppeshawar

No. 32/19 / CA-17 / Edti Branch / Wangi / Zohir Shah / Group

Dated Peshawar the 25/6/2024

To

The Secretary
Govt. of Khyber Pakhtunkhwa
Higher Education Department, Peshawar.

SUBJECT

DEPARTMENTAL APPEAL AGAINST THE TRANSFER ORDER
NO. SO (COLLEGES-II)/HED/2-5/2024/SYED ISHTIAQ
HUSSAIN DATED 20.06.2024.

Respected Sir,

I am directed to enclose herewith a self-explanatory application in respect of Mr. Zahir Shah, Additional Director (Academics) (B-19) under transfer to Govt. Degree College, Ring Road, Peshawar as Principal vide Notification No. SO (Colleges-II)/HED/2-5/2024/Syed Ishtiaq Hussain dated 20.06.2024 has lodged his appeal against the said transfer order for appropriate action, please.

Yours faithfully,

(Muhammad Iqbal)

ADDITIONAL DIRECTOR (ESTT)

16

To

The Chief Minister,
Khyber Pakhtunkhwa,
Peshawar.

Through: Proper Channel

Subject: DEPARTMENTAL APPEAL AGAINST THE TRANSFER ORDER NO. SO(C-II)/HED/2-5/2024/SYED ISHTIAQ HUSSAIN DATED JUNE 20, 2024.

Respected Sir,

The undersigned very humbly submit the following few lines for your kind and sympathetic consideration:

1. That the undersigned was performing his duties as an Associate Professor and was transferred from Govt. Degree College Sadaher Peshawar to Directorate of Higher Education Khyber Pakhtunkhwa Peshawar against the vacant post of Additional Director (Academics) vide transfer order No. SO(C-III)/HED/1-3/2023/Posting/Transfer Dated July 17, 2023 (Annex-1).
2. As an Additional Director (Academics), I was performing my duties with great zeal and zest and to the entire satisfaction of my superiors without any complaint regarding my performance to date.
3. That regrettably, the undersigned was transferred from the post of Additional Director (Academics), Directorate of Higher Education, Peshawar to Government Degree College Ring Road Peshawar as an Associate Professor/Principal vide Notification No. SO(C-II)/HED/2-5/2024/Syed Ishtiaq Hussain dated June 20, 2024 (Annex-2).
4. That the impugned order is violation of clause (I) and (IV) of transfer/posting policy notified by the provincial government. Similarly, Clause-I of the said policy prescribes that all postings/ transfer shall be made strictly in public interest and shall not be misused to victimize the government servants. The clause-IV prescribe the tenure of posting/transfer shall be 2 years for settled areas. The undersigned has been transferred after only 11 months which is against the transfer/posting policy of the provincial government.
5. Transfer order No. SO(C-II)/HED/2-5/2024/Syed Ishtiaq Hussain dated June 20, 2024, the Associate Professor at serial # 1, as per record shown was posted as Director HEMIS cell on Sept 06, 2019 vide Notification No. SO(G)/HE/PF/Syed Ishtiaq Hussain/2017 and subsequent order SO(G)/HE/PF/1938-40/Ishtiaq Hussain Dated Jan 23, 2020 (Annex-3 & 4). On April 16, 2024 he was replaced by Safdar Kamal as Director HEMIS cell as per Establishment Department Notification No. SO(E-V)/E&AD/

put up please
24/06/24
CA-1

17

5-23/2021 (Annex-5). Consequently, Mr. Ishtiaq Hussain Associate Professor spent more than 5 year period outside colleges. Despite the fact that his initial recruitment was made as teacher and he was not assigned to a teaching post till date. Instead to favor an individual, the Higher Education Department disregarding the transfer/posting policy posted him as an Additional Director (Academics), Directorate of Higher Education, Peshawar by dislocating the officer who had not yet completed his normal tenure of 2 years.

6. That the Higher Education Department while submitting a posting/transfer summary to the chief minister showed the Associate Professor as "awaiting for posting". However, in reality the Department issued order NO. SO(C-II)/HED/2-5/2024/Syed Ishtiaq Hussain Dated May 27, 2024(Annex- 6) temporarily transferred the Associate Professor to GDC Ring Road Peshawar. Consequently, the Associate Professor received salary for the month of May 2024 without doing his duties (Annex- 7). This action violates Clause-VIII of the posting/transfer policy of the provincial government.

It is, therefore, humbly requested that transfer order dated June 20, 2024 be revoked and I may be allowed to perform my duty as Additional Director(Academics) accordingly.

Thanks

Yours Faithfully,

ZAHIR SHAH
ADDITIONAL DIRECTOR
(ACADEMIC)
DIRECTORATE OF HIGHER EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR

DD/E
31/5/24



(18)

GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT

No. SO(CE&MS)/L-8/Posting/Transfer Guidelines
Dated Peshawar, 13/05/2024.

To

1. The Director General,
Commerce Education & Management Sciences,
Khyber Pakhtunkhwa.
2. The Director,
Higher Education, Khyber Pakhtunkhwa.

Subject: - POSTING/TRANSFER GUIDELINES OF HIGHER EDUCATION
DEPARTMENT

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith copy of "Posting/Transfer Guidelines of Higher Education Department" for compliance.

Furthermore, the subject guidelines may be circulated to all Principals of Higher Education Department for information and compliance, please.

(Sulaiman Ahmad)
SECTION OFFICER (CE&MS)

Encls: No. & date even.

Copy is forwarded to the:-

- 1- Section Officer (C-I, C-II, C-III & C-IV), Higher Education Department along with a copy of posting/transfer guidelines for information and compliance.
- 2- PS to Minister Higher Education Department.
- 3- PS to Secretary Higher Education Department.
- 4- PA to Additional Secretary (Colleges), Higher Education Department.
- 5- PA to Deputy Secretary (Colleges), Higher Education Department.
- 6- Master file.

Wmawmaw 13-05-2024
SECTION OFFICER (CE&MS)



(19)

GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT

POSTING/TRANSFER GUIDELINES OF HIGHER EDUCATION DEPARTMENT.

1st Phase

1. After the issuance of posting/transfer Notification by Higher Education Department, the officer is bound to join his/her new post within three (03) days (if his/her posting is within the home district) or within Seven (07) days (in case of outside the home district). In case of non-compliance within the prescribed time limit the concerned Principals are bound to relieve the transferred candidates after expiry of the ibid time limit and will inform the concerned Directorate for initiation of disciplinary Proceedings as per Efficiency & Discipline Rules, 2011.
2. All posting/transfer requests will be routed through the concerned Directorates to Higher Education Department (Annex-D) for consideration of the placement committee.
3. Placement committee meetings will be held twice in a year i.e before the start of new semester (Fall & Spring). The concerned directorate after thorough examination will forward posting/transfer requests/proposals in consolidated form on the specified format both in hard and soft form (presentation) seven (07) days prior to placement committee meeting.
4. No posting/transfer in Higher Education Department will be made, if not considered/recommended by the placement committee. Only, Posting/Transfer of fresh appointees, promotees, retirement and return from long leave will be exempted from this condition.

- (20)
5. The domicile holders of a district shall be given priority in posting within district or adjoining districts and zone of appointment (if there is no vacant post/need in his/her District of Domicile). However, newly appointees/promotees will be posted by the department in hard areas colleges of his/her respective zone of appointment or in case no vacant post is available or no need in his / her respective zone of appointment then, may be posted in any other college in hard areas of Khyber Pakhtunkhwa. If a candidate (except newly appointees/promotees) wishes to be transferred outside his/her ambit of domicile OR zone of appointment or within his/her ambit of domicile OR zone of appointment he/she must obtain NOC's of both Principals concerned and submit his/her application along with enclosed proforma (Annex-II) to concerned Directorates.
6. Faculty members suffering from any fatal disease/disabilities may forward his/her posting/transfer application to concerned DG/Director HE alongwith attested documentary proofs.
7. These guidelines will be applicable from the date of its issuance.
8. Those districts or zones where there is no female colleges will be exempted from condition No. 05, of the ibid guidelines.
9. Posting/transfers against a wrong subject will strictly be prohibited.
10. Maximum, 5% or 02 persons per college with disabilities (whichever is higher) will be transferred in a college.
11. There will be complete ban on faculty members visiting Higher Education Department regarding their posting/transfers during class hours (Annex-III), failing which disciplinary action will be initiated against the concerned under E&D Rules, 2011.
12. Simple application along with enclosed Proforma (Annex-II) duly complete in all respects (incomplete case will not be entertained) addressed to Director General,

(21)

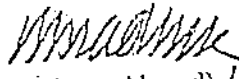
Commerce Education & Management Sciences OR Director Higher Education as the case may be, will be given only by those candidates (except newly appointees/newly promotees) who wish to be transferred outside his/her ambit of domicile OR zone of appointment or within his/her ambit of domicile OR zone of appointment.

13. The normal tenure of posting shall be two years.

14. All the Posting/Transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants.

15. Political, Administrative or any other pressure upon the posting/transfer authorities for seeking posting/transfers of their choice and against the public interest will strictly be prohibited and action will be initiated as per E&D Rules, 2011, against those faculty members who are found involved in exerting any kind of pressure upon the posting/transfer authorities.

16. 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 and into the benefit of less developed area/district.


(Sulaiman Ahmad) 13-05-2024
Section Officer (CE&MS)
Higher Education Department



GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES AND
LIBRARIES DEPARTMENT

Dated Peshawar the September 18, 2019

NOTIFICATION:
No.SO(C-IV)HED/SSRC/Directorate of Higher Education Department/2019/ :- In pursuance of the provisions contained in sub-rule(2) of rule 3 of the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989, and in supersession of this Department Notification No. S.O (C)5-2/70(E) dated: 09.05.1978, the Higher Education Archives & Libraries Department, in consultation with the Establishment Department and the Finance Department, hereby lays down the method of recruitment, qualification and other conditions specified in Column No. 3 to 5 of the appendix which shall be applicable to the posts in the Directorate of Higher Education specified in Column No.2 of the said appendix.

APPENDIX

S#	Nomenclature of the post	Minimum qualification for appointment by initial recruitment or by transfer	Minimum qualification for appointment by transfer	Age limit	Method of Recruitment
1	Director (BS-20)	---	---	---	By transfer from amongst the Principals/Professors in BS-20 of Govt. Post Graduate Colleges/Govt. Degree Colleges.
2	Additional Director (BS-19)	---	---	---	By transfer from amongst the Associate Professors in BS-19 Govt. Post Graduate Colleges/Govt. Degree Colleges.
3	Deputy Director (BS-18)	---	---	---	(a) Twenty-five (25%) by promotion on the basis of seniority-cum-fitness from amongst the Assistant Directors (BS-17) with at least five (05) years' service in BS-17; & (b) Seventy-five (75%) by transfer from amongst the Assistant Professors from Govt. Post Graduate College for a period of three (03) years.
4	Assistant Director /Statistical Officer (BS-17)	---	---	---	(a) Fifty (50%) by promotion, on the basis of seniority-cum-fitness, from amongst the Superintendent, having Bachelor Degree from a recognized University with three (03) years' service as such; & (b) Fifty (50%) by transfer from amongst the Lecturers from Govt. Colleges of Khyber Pakhtunkhwa for a period of three (03) years.


[Signature]
Section Officer (CIV)
Govt. Office, Peshawar
Higher Education, Archives & Libraries Department

Checked by: [Signature]

22

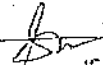
23

5	Superintendent (BS-17)	---	---	---	By promotion, on the basis of seniority-cum-fitness, from amongst the Assistants and Senior Scale Stenographers having at least five (05) years' service as such. <u>Note:</u> - For the purpose of promotion, a joint seniority list of Assistants and Senior Scale Stenographers shall be maintained.
6	Assistant (BS-16)	At least Second-Class Bachelor's Degree or equivalent qualification from a recognized University.	---	20 to 32 years	(a) Seventy-five (75%) by promotion on the basis of seniority-cum-fitness from amongst the Senior Clerks with at least five (05) years as Junior Clerk & Senior Clerk; and (b) Twenty-five (25%) by initial recruitment.
7	Senior Scale Stenographer (BS-16)	---	---	---	By promotion, on the basis of seniority-cum-fitness, from amongst the Stenographers with at least five years (05) service as such.
8	Computer Operator (BS-16)	At least Second-Class Bachelor's Degree in Computer Science/Information Technology (BCS/BIT 04 years) from a recognized University or Second Class Bachelor's Degree from a recognized University with one-year (01) diploma in Information Technology from a recognized Board of Technical Education.	---	18 to 28 years	By initial recruitment
9	Stenographer (BS-14)	(i) At least Second Division Intermediate Certificate or equivalent qualification from a recognized Board; (ii) A speed of fifty (50) words per minute in shorthand in English and thirty-five (35) words per minute in typing; and (iii) Knowledge of computer in using MS Word & MS Excel.	---	18 to 30 years	By initial recruitment
10	Senior Clerk (BS-14)	---	---	---	By promotion on the basis of seniority-cum-fitness from amongst the Junior Clerk with at least two (02) years' service as such.


 Section Officer (CIV)
 East
 Archives & Library Division

24

11	Junior Clerk (BS-11)	(i) At least second Division Secondary School Certificate or equivalent qualification from a recognized Board; and (ii) A speed of thirty (30) words per minutes in typing.	---	18 to 30 years	a. Thirty-three (33%) by promotion on the basis of seniority-cum-fitness from amongst the Naib Qasid, Chowkidar, Behishtis, Cook, Bearers and Laboratory Attendants other equivalent posts in the Directorate of Higher Education Khyber Pakhtunkhwa with two years (02) service as such who have Secondary School Certificate; and b. Sixty-seven (67%) by initial recruitment. Note:- For the purpose of promotion, there shall be maintained a joint seniority list of Naib Qasid, Chowkidar, Behishtis, Cook, Bearers and Laboratory Attendants including other equivalent posts with reference to the dates of their acquiring the Secondary School Certificate. Provided that:- a. If two or more officials have acquired the Secondary School Certificate in the same session, the inter-seniority in the lower post shall be maintained for the purpose of determining seniority in the higher post; and b. Where a senior official does not possess the requisite qualification at the time of filling up a vacancy, the official next junior to him possessing the requisite qualification shall be promoted in preference to the senior official or officials.
12	Library Clerk (BS-08)	At least Second Division Intermediate Certificate or equivalent qualification from a recognized Board	---	18 to 30 years	By initial recruitment
13	Store Keeper (BS-06)	At least Second Division Intermediate Certificate or equivalent qualification from a recognized Board	---	18 to 30 years	By initial recruitment
14	Driver (BS-06)	HTV/LTV License. Preference will be given to those who have sufficient experience in driving, repair and maintenance of Vehicles	---	18 to 40 years	By initial recruitment
15	Naib Qasid (BS-03)	Preferably Literate	---	18 to 40 years	By initial recruitment
16	Chowkidar (BS-3)	Preferably Literate	---	18 to 40 years	By initial recruitment
17	Behishti/Cook/Bearer (BS-03)	Preferably Literate	---	18 to 40 years	By initial recruitment


 Section Officer (C.T.V.)
 Govt. of Khyber Pakhtunkhwa
 Higher Education
 Archives & Libraries Section

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18	Laboratory Attendant (BS-03)	Preferably Literate	---	By initial recruitment
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SECRETARY TO
GOVT. OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION ARCHIVES AND LIBRARIES DEPARTMENT.

Endst: No. & Date as above.

Copy to forwarded to:-

1. The Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department.
2. The Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
3. The Secretary to Govt. of Khyber Pakhtunkhwa, Law Department.
4. The Secretary Khyber Pakhtunkhwa Public Service Commission, Peshawar.
5. The Accountant General Khyber Pakhtunkhwa, Peshawar.
6. The Director Higher Education Department, Khyber Pakhtunkhwa.
7. The Manager Govt. Printing Press, Khyber Pakhtunkhwa.
8. The Deputy Director, HEMIS Cell.
9. All District Accounts Officers, Khyber Pakhtunkhwa.
10. PS to Chief Minister, Khyber Pakhtunkhwa.
11. PS to Chief Secretary, Khyber Pakhtunkhwa.
12. PS to Secretary, Higher Education Department.
13. Master File.

Smt
18/07/17
SECTION OFFICER (C-IV)

POWER OF ATTORNEY

BEFORE THE _____

No. _____

of 2024

VERSUS

I/we _____ do hereby appoint & constitute The Law Firm Of
SHAH | DURRANI | KHATTAK

(a registered-law firm) as counsel in the above mentioned case, to do all or any of the following acts, deeds and things:-

1. To appear, act and plead for me/us in the above mentioned case in this Court/Tribunal or any other court/tribunal in which the same may be tried or heard and any other proceedings arising out of or connected therewith.
2. To sign, verify and file Plain/Written Statement or withdraw all proceedings, petitions, suit appeals, revision, review, affidavits and applications for compromise or withdrawal, or for submission to arbitration of the said case, or any other document, as may be deemed necessary or advisable by him for proper conduct, prosecution or defence of the said case at any stage.
3. To do and perform all other acts which may be deemed necessary or advisable during the course of the proceedings.

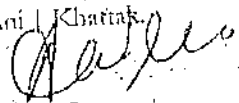
AND HEREBY AGREE:-

- a) To ratify whatever the said Advocates may do in the proceedings in my interest, Not to hold the Advocates responsible if the said case be proceeded ex-parte or dismissed in default in consequence of their absence from the Court/Tribunal when it is called for hearing or is decided against me/us.
- b) That the Advocates shall be entitled to withdraw from the prosecution of the said case if the whole OR any part of the agreed fee remains unpaid.

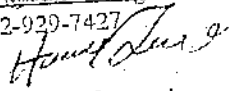
In witness whereof I/We have signed this Power of Attorney/Wakalat Nama hereunder the contents of which have been read/expained to me/us and fully understood by me / us this _____ day of _____ at _____

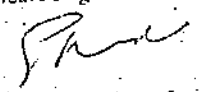
Signature of Executant(s)


Accepted subject to term regarding payment of fee for/on behalf of The Law Firm of Shah | Durrani | Khattak.

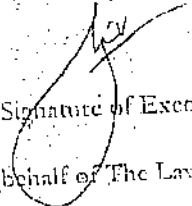

Ali Gohar Durrani
Advocate Supreme Court

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+92-332-929-7427

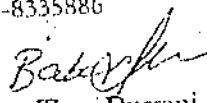

Hannah Zahid Durrani
Advocate High Court


Shahkhar Khan Yousafzai
Advocate

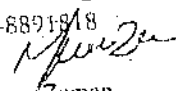

Maltronna Syed
Advocate

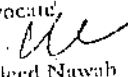

Zarife Arif Shah
Advocate High Court

0333-8335886


Babar Khan Durrani
Advocate High Court

0301-8891918


Muskan Zaman
Advocate


Waleed Nawab
Advocate

Shah | Durrani | Khattak
(A registered law firm)

www.sdklaw.org info@sdklaw.org

231-A, Street No. 13, New Shami Road, Peshawar.

پشاور بار ایسوسی ایشن

ACCEPTED

ACCEPTED




7/10/20

مقدمہ میں جو بیان پیش کیا گیا ہے اس پر اعتراضات درج ذیل ہیں۔
1۔ مقدمہ میں جو بیان پیش کیا گیا ہے اس پر اعتراضات درج ذیل ہیں۔
2۔ مقدمہ میں جو بیان پیش کیا گیا ہے اس پر اعتراضات درج ذیل ہیں۔
3۔ مقدمہ میں جو بیان پیش کیا گیا ہے اس پر اعتراضات درج ذیل ہیں۔
4۔ مقدمہ میں جو بیان پیش کیا گیا ہے اس پر اعتراضات درج ذیل ہیں۔
5۔ مقدمہ میں جو بیان پیش کیا گیا ہے اس پر اعتراضات درج ذیل ہیں۔
6۔ مقدمہ میں جو بیان پیش کیا گیا ہے اس پر اعتراضات درج ذیل ہیں۔
7۔ مقدمہ میں جو بیان پیش کیا گیا ہے اس پر اعتراضات درج ذیل ہیں۔
8۔ مقدمہ میں جو بیان پیش کیا گیا ہے اس پر اعتراضات درج ذیل ہیں۔
9۔ مقدمہ میں جو بیان پیش کیا گیا ہے اس پر اعتراضات درج ذیل ہیں۔
10۔ مقدمہ میں جو بیان پیش کیا گیا ہے اس پر اعتراضات درج ذیل ہیں۔

Appellate
Qualified

<p>اپیل</p>	
<p>Year of work</p>	<p>۲۰</p>
<p>Def</p>	<p>Def</p>
<p>Appellate</p>	<p>Appellate</p>
<p>نام:</p>	<p>_____</p>
<p>عنوان:</p>	<p>_____</p>
<p>پتہ:</p>	<p>_____</p>
<p>تاریخ:</p>	<p>_____</p>

Before the Senior Counsel

	<p>0335-9204449</p>
	<p>BE-19-1178</p>
	<p>48655</p>
<p>پشاور بار ایسوسی ایشن</p>	<p>پشاور</p>

پشاور بار ایسوسی ایشن

Signature
A. J. Khan

پشاور بار ایسوسی ایشن
پشاور



تاریخ: 15/10/20

محرم و کرم کے نام سے دعا ہے کہ اللہ تعالیٰ ہمیں ہر کام میں کامیاب کرے اور ہر کام کو ہماری فلاح و بہبود میں بدلے۔ آمین۔

Appellate
Court

اپیل	
نمبر:	اپیل
تاریخ:	15/10/20
پتہ:	پشاور
ذمہ دار:	پروفیسر
تعلقہ:	پشاور
نمبر:	56746

Before the Service Tribunal, Peshawar

پشاور بار ایسوسی ایشن	56746
 	BC-21-4442 0332-5723656

28