


FORM OF ORDER SHEET

Court of _____

Appeal No. 2036/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	21/10/2024	<p>The appeal of Mr. Shafiq ur Rehman presented today by Mr. Kabir Ullah Khattak Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on 24.10.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

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

Appeal No. 2036 /2024

Shafiq Ur Rehman VERSUS Chief Secretary & others

**APPLICATION FOR FIXATION OF THE
INSTANT SERVICE APPEAL BEFORE THE
PRINCIPAL SEAT PESHAWAR INSTEAD OF
CAMP COURT ABBOTTABAD.**

Respectfully Sheweth:


1. That the appellant is going to file the above mention service appeal before this Hon' able Tribunal in which no date has yet been fixed.
2. That the Respondent No 1 to 2 as well as the counsel of the applicant belongs to District Peshawar.
3. That there is no legal bar for acceptance of the instant application.

It is therefore, most humbly prayed that on acceptance of instant application, the above mentioned service titled appeal may kindly be fixed before the principal seat Peshawar instead of camp court Abbottabad.

Dated 21/10/2024


Appellant

Through


Roeda Khan
Advocate High Court
Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. 2036 of 2024

Mr. Shafiq Ur Rehman

VERSUS

Chief Secretary Govt of Khyber. Pakhtunkhwa Peshawar and others

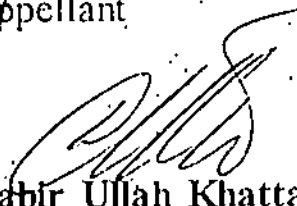
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S.No.	Description of documents	Annexure	Pages
1.	Memo of Appeal		1-4
2.	Affidavit		5
3.	Addresses of the parties		6
4.	Copy of transfer order dated 07.04.2023	A	7
5.	Copy of impugned transfer order dated 12.06.2024	B	8
6.	Copy of Departmental appeal	C	9
7.	Wakalat Nama		10

Dated, 21.10.2024


Appellant

Through


Kabir Ullah Khattak
Advocate, High Court,
Peshawar

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

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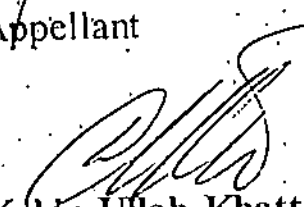
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Dated 21.10.2024


Appellant

Through


Kabir Ullah Khattak
Advocate, High Court,
Peshawar

①

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR,

Appeal No. _____ of 2024

Mr. Shafiq Ur Rehman SDEO, Management Cadre posted at Directorate of Elementary and Secondary Education Peshawar.

..... Appellant

VERSUS

1. Chief Secretary Govt of Khyber Pakhtunkhwa Peshawar.
2. Secretary to Government Elementary and Secondary Education Peshawar.
3. Mr. Naiz Muhammad (MO BS-16) SDEO. (Male) Baffa Pakhal Manshera.

..... Respondents

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNAL ACT, 1974, AGAINST THE PRE-MATURE IMPUGNED TRANSFER ORDER DATED 12/06/2024 WHEREBY THE APPELLANT WAS TRANSFERRED FROM THE POST OF SDEO (M) BAFFA PAKHAL MANSEHRA TO REPORT TO DIRECTORATE OF ELEMENTARY AND SECONDARY EDUCATION AGAINST WHICH APPELLANT FILED DEPARTMENTAL APPEAL ON 24.06.2024 WHICH WAS STILL PENDING WITHOUT ANY DISPOSAL.

PRAYER:

On acceptance of the instant Service Appeal the premature impugned order dated 12/06/2024 may kindly be set aside and the transfer / posted order dated 07.04.2023 may kindly be retained in favor of the appellant.

Respectfully Sheweth:

FACTS

The appellant respectfully submits as under:

- 1) That the appellant was initially appointed as Certified teacher on 31.01.1995 with respondent department and after appointment the appellant performed his official duty with full deviation and hard work and no complaint whatsoever was made against the appellant.
- 2) That due to unblemished service record the appellant was promoted to the post of ASDEO Management Cadre (BPS-16) in the year 2011 and later on was promoted to the post of SDEO Management Cadre (BPS-17) in the year of 2018.
- 3) That while performing his official duty with respondent department the appellant was transferred from the post of SDEO (M) Tanawal Abbottabad to SDEO (M) Baffa Manshehra on 07.04.2023. (Copy of transfer order dated 07.04.2023 is attached as annexure-A).
- 4) That on 12.06.2024 the impugned premature transfer order was issued whereby the appellant was transferred from the post of SDEO (M) Baffa Pakhal Mansehra and to report to Directorate of Elementary and Secondary Education Peshawar while the Respondent No 3 was transferred at the place of the appellant. (Copy of impugned transfer order dated 12.06.2024 is attached as annexure-B).

- 5) That the appellant submitted Departmental appeal on 24.06.2024 against the premature impugned transfer order dated 12.06.2024 which was not responded by the respondent department. (Copy of Departmental appeal is attached as annexure-C).
- 6) That feeling aggrieved the appellant prepares the instant service appeal before this Hon' able Tribunal inter alia on the following grounds:-

GROUND

- A. That the appellant was not treated in accordance with law and rules hence his rights secured and granted under the Constitution of Islamic Republic of Pakistan 1973 were badly violated.
- B. That the impugned premature transfer order dated 12.06.2024 is illegal, unlawful, and unconstitutional and was passed against the transfer posting policy hence may be liable for setting aside.
- C. That the appellant was not treated by the respondent department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution Islamic Republic of Pakistan 1973.
- D. That according to transfer posting policy, normal tenure for posting is two years, but the appellant transfer order was passed before completion of normal tenure, which is total violation of Government transfer posting policy.

(9)

Thus the impugned transfer order is liable to be set aside on this count alone.

- E. That Junior Scale ASDEO (BPS-16) adjusted against the post of (BPS-17) actually the Private Respondent in BPS-16 and the post of SDEO in (BPS-17), the Respondent Department wrongly adjusted Private Respondent on the post of appellant (BPS-17) and the private Respondent transfer order in OPS which is against the law and rules. That the Private Respondent in (BPS-16) he is not an officer he is official and having no power of drawing and disbursing officer (DDO).
- F. That the impugned transfer has neither been in the best interest of public service nor the exigencies of service, hence, not tenable and liable to be set aside.
- G. That there is no illegality on part of the appellant.
- H. That any other grounds will be raised at the time of arguments with prior permission of this Hon' able Tribunal.

It is therefore most humbly prayed that on acceptance of the instant Service Appeal the premature impugned order dated 12/06/2024 may kindly be set aside and the transfer / posting order dated 07.04.2023 may kindly be retained in favor of the appellant.

Any other remedy which this august tribunal deems fit that may also onward granted in favor of appellant.

Dated 21.10.2024

Through

Appellant

Kabir Ullah Khattak

Roeeeda Khan

Advocates, High Court, Peshawar

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Appeal No. _____ of 2024

Mr. Shafiq Ur Rehman

VERSUS

Chief Secretary Govt of Khyber Pakhtunkhwa Peshawar and others

AFFIDAVIT

I, Mr. Shafiq Ur Rehman SDEO, Management Cadre posted at Directorate of Elementary and Secondary education Peshawar do hereby solemnly affirm and declare on oath that the content of the above application are true and correct to the best of my knowledge and belief and nothing has been kept secret and concealed from this Hon'ble Tribunal.


DEPONENT

(6)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. _____ of 2024

Mr. Shafiq Ur Rehman

VERSUS

Chief Secretary Govt of Khyber Pakhtunkhwa Peshawar and others

ADDRESSES OF THE PARTIES

Petitioner

Mr. Shafiq Ur Rehman SDEO, Management Cadre posted at
Directorate of Elementary and Secondary education Peshawar.

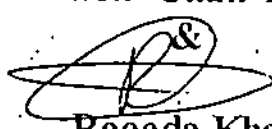
Respondents

1. Chief Secretary Govt of Khyber Pakhtunkhwa Peshawar.
2. Secretary to Government Elementary and Secondary education
Peshawar.
3. Mr. Naiz Muhammad (MO BS-16) SDEO (Male) Baffa Pakhal
Manshera in OPS vice Serial No. 1.


Appellant

Through


Kabir Ullah Khattak


Roeda Khan

Advocate, High Court,
Peshawar.

NOTIFICATION

NO. SO(MC)E&SE/16/2022/Posting/Transf. The hereby ordered with immediate effect in

Annexure A Dated 2-7-2023

the following posting/transf. in public interest.

S. No.	Name	FROM	TO	Remarks
1	Shahin Ur Rehman	SDEO (Male) Lower Tannah Abbottabad	SDEO (Male) Baffa Manshra	V.S. No. 2
2	Abdul Samad MC BS-17	SDEO (Male) Baffa Manshra	SDEO (Male) Lower Tannah Abbottabad	V.S. No. 3
3	Mst. Fajhal Rafique MC BS-17	SDEO (Female) Ogi Manshra	SDEO (Female) Baffa Manshra	V.S. No. 4
4	Rizwana Kaisar MC BS-17	SDEO (Female) Baffa Manshra	SDEO (Female) Ogi Manshra	V.S. No. 3
5	Muhammad Hakim Khan TC BS-16	ASDEO (Female) Paltan Circle Kohistan Lower	Additional Charge of SDEO (Female) Bankal Kohistan Lower	As stop gap arrangement till the arrival of regular incumbent
6	Mst. Seema Salim MC BS-17	Awaiting Posting	SDEO (Female) Takhi Bhai Mardan	V.S. No. 7
7	Waheeda Naz MC BS-17	SDEO (Female) Takhi Bhai Mardan	SDEO (Female) Rustam Mardan	V.S. No. 8
8	Syeda Humora Mehmood MC BS-17	SDEO (Female) Rustam Mardan	Report to Directorate of E&SE Peshawar	
9	Rizwana Shaheen MC BS-17	SDEO (Female) Mandi Swat	SDEO (Female) Landi Kotal	AVP
10	Muhammad Tahir TC BS-17	IPE GHSS Dampokha Buner	SDEO (Male) Gadazai Buner	AVP
11	Muhammad Tahir MC-17	SDEO M Lajam Dir Upper	SDEO M Sheringal Dir Upper	V.S. No. 1
12	Ajeb Ullah MC-17	SDEO M Sheringal Dir Upper	SDEO (Male) Primary Thall	V.S. No. 11
13	Muhammad Irshad MC-17	SDEO Bankat Kohistan Lower	SDEO (Male) Wana South Waziristan	AVP
14	Masood Khan TC BS-17	ADEO Wana South Waziristan	ADEO Wana South Waziristan	V.S. No. 15
15	Aurang Zeb TC BS-16	SDEO (Male) Wana South Waziristan	ADEO Wana South Waziristan	V.S. No. 14

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
E&SE DEPARTMENT

Encl: of over No. & date:

Copy forwarded for information to the:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
3. District Accounts Officer Concerned.
4. District Education Officer (Male/Female) Concerned.
5. Director, EMIS, E&SE Department with the request to upload the same on the official website of the department.
6. PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.
7. Officer concerned.

(IMRAN ZAMAN)
SECTION OFFICER (Management)

7.4.2023



Dated, the Peshawar 12th June, 2024

NOTIFICATION

NO.SO(MC)E&SED/4-16/2024/PT/SDEO/Mansehra: The following postings / transfers are hereby ordered with immediate effect, in the best public interest:

Sr. No	Name of officer	From	To
1.	Mr. Shafiq Ur Rehman (MC BS-17)	SDEO (Male) Baffa Pakhal Mansehra	Report to Directorate of E&SE
2.	Mr. Niaz Muhammad (MO BS-16)	ASDEO Circle Dhodial, Mansehra	SDEO (Male) Baffa Pakhal Mansehra in OPS V.Sr.No.1522
3.	Mr. Raja Aftab Ahmed (TC BS-16)	Under transfer from the post of ASDEO (M), Circle Battal, Mansehra	ASDEO Circle Dhodial, Mansehra V.Sr.No.02

SECRETARY TO THE GOVT. OF KHYBER PAKHTUNKHWA
E&SE DEPARTMENT

Endst. of even No. & date:

Copy forwarded for information to the:

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar
3. Director EMIS, E&SE Department with the request to upload the same on the official website of the department.
4. District Education Officer (M), Mansehra.
5. District Account Office, Mansehra.
6. PS to Secretary, E&SE Department, Khyber Pakhtunkhwa.

(JANBAZ AHMED)
SECTION OFFICER (Management Cadre)



Annex: C

9

Before the

Chief Secretary,
Government of Khyber Pakhtunkhwa Peshawar
Through proper channel.

Subject: DEPARTMENTAL APPEAL AGAINST IMPUGNED NOTIFICATION NO. SO(MC)E&SED/4-16/2024/PT/SDEO/Mansehra DATED: JUNE 12, 2024 ISSUED BY GOVERNMENT OF KHYBER PAKHTUNKHWA E&SE DEPARTMENT, WHEREAS THE APPELLANT WAS DIRECTED TO REPORT TO DIRECTORATE OF E&SE AND ONE MR. NIAZ MUHAMMAD ASDEO BPS: 16 WAS ADJUSTED AGAINST THE HIGHER POST OF SDEO BPS: 17 AS RESULT OF COLOURABLE EXERCISE OF POWER TO ACCOMODATE A BLUE EYED JUNIOR OFFICER.

Respected Sir,

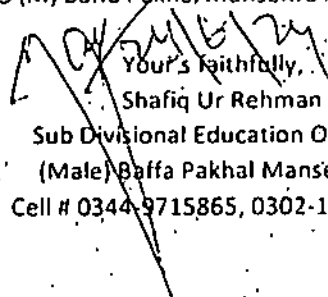
That the instant Departmental Appeal is submitted to your honor with the following facts:

1. That the appellant was posted against the post of SDEO (M) Baffa Pakhal Mansehra vide Government of Khyber Pakhtunkhwa E& SE Department Notification No. SO(MC)E&SED/4-16/2022/Posting/Transfer Dated: April 07, 2023, and assumed the charge of the post on May 13, 2023. (copy of Transfer order is attached and marked as Annex-A).
2. That the Department of E&SE issued impugned caption Notification against the posting /Transfer policy of the government of KP 2009 and directed the appellant to report to the Directorate of E&SE without giving any cogent justification, the transfer is premature issued after a period of one year tenure as SDEO (M) Baffa Pakhal Mansehra. (Copy attached as Annex-B).
3. That Mr. Niaz Muhammad ASDEO circle Dhodial Tehsil Baffa Pakhal Mansehra BPS-16 was unlawfully adjusted against the higher post, who exerted political pressure upon the transferring authority and succeeded to get transfer order against the higher post against the public interest and transfer/Posting Policy of the Government of KP.
4. That Mr. Niaz Muhammad ASDEO who was appointed in March 2022 vide Directorate of E&SE KP Peshawar Endstt: No. 6702-10 Dated Peshawar the March 3, 2022 against the said post having no field experience to run the affairs of the Sub Division, even the said official remained under complaint for his negligence, misuse of power and authority to extend relief to influential teachers and the employees of his circle. (Copies of explanations and logbooks issued by appellant being SDEO are attached herewith as Annex-C).

Sir,

Therefore it is prayed that impugned transfer order is premature, result of political victimization and even against the transfer/Posting policy of the Government of KP, same was issued not in the public interest but favored a junior officer adjusting him against a higher pay scale/ post that is may be a cause of financial loss to the provincial exchequers.

Hence impugned posting/transfer notification may please be set aside declaring it null and void/without lawful authority and retain the appellant as SDEO (M) Baffa Pakhal Mansehra in the best public interest and institution.


Your's faithfully,
Shafiq Ur Rehman
Sub Divisional Education Officer
(Male) Baffa Pakhal Mansehra
Cell # 0344-9715865, 0302-1822169.

Dated: June 24, 2024.

وکالت نامہ

بعد الت جناب سردار محمد علی صاحب

مقدمہ بعنوان

بنام المد علیہ

منجانب اسلامیت
دعویٰ

علت
مورثہ
جرم
تھانہ

باعث تحریر آنکہ

مقدمہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ / جملہ

آن مقام لاہور کیلئے کیسڈاٹکٹ روٹ ایڈوکیٹس

صاحب کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی، نیز دائر کرنے اپیل نگرانی نظر ثانی و پیروی کرنے کا اختیار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختیار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جواب دہ جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پرداخت منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا کوئی تاریخ پیشی مقام دورہ یا حد سے باہر ہو تو

وکیل صاحب پابند نہ ہونگے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

مقام لاہور دستخط ایڈوکیٹس

Acceptance
By

Handwritten signature and notes on the right side of the page.