


FORM OF ORDER SHEET.

Court of _____

Appeal No. 1954/2024

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	15/10/2024	<p>The appeal of Mr. Amir Khan resubmitted today by Mr. Saeed Roman Advocate. It is fixed for preliminary hearing before t Single Bench at Peshawar on 23.10.2024. Parcha Peshi given to counsel for the appellant.</p> <p>By order of the Chairman</p> <p> REGISTRAR</p>

The appeal of Mr. Amir Khan received today i.e on 14.10.2024 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- According to sub-rule-4 of rule-6 of Khyber Pakhtunkhwa Service Tribunal rules 1974 respondent no. 1 and 4 to 8 are unnecessary/improper parties, 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.
- 2- Annexures of the appeal are unattested.
- 3- Copy of departmental appeal is not attached with the appeal be placed on it.

No. 902 /Inst./2024/KPST,

Dt. 14/10 /2024.

Amirullah
ADDITIONAL REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Saeed Roman Adv.
High Court at Peshawar.

NOTE:- Appellant has no objection if

Respondent No. 1 & 4 to 8 be deleted.

(2) objections removed & file re-submitted.

Saeed Roman
Adv

BEFORE THE SERVICE TRIBUNAL K.P.K., PESHAWAR

AMO = 1954/2024

Amir Khan.....Appellant


Versus

Director E&SE, Peshawar & others.....Respondents

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Appellant
Through


Saeed Roman
Advocate High Court

U

BEFORE THE SERVICE TRIBUNAL K.P.K., PESHAWAR

Service Appeal No. 1954/2024

Amir Khan (Ex-Chowkidar), GPS Aso Khel, Nowshera

..... Appellant

V E R S U S

1. Director Elementary & Secondary Education, KPK
Peshawar
2. District Education Officer (M), Nowshera
..... Respondents

Appeal U/S 4 of NWFP Service Tribunal Act, 1974 with all Amendments upto date against the impugned Order-in-Appeal dated 09.10.2024 passed by the Respondent No.01 as well as impugned Office Order dated 20.05.2024 passed by the Respondent No.02 Whereby the Appellant was Awarded Major Penalty of "Compulsory Retirement"

Prayer in Appeal: On acceptance of this appeal the appellant may graciously be pleased to

- (i) **SET ASIDE THE IMPUGNED ORDER-IN-APPEAL DATED 09.10.2024 PASEED BY THE RESPONDENT No.01 AS WELL AS IMPUGNED OFFICE ORDER DATED 20.05.2024 PASSED BY THE RESPONDENT NO.02 AND DECLARE THE**

(2)

SAID IMPUGNED ORDERS ILLEGAL,
UNLAWFUL, WITHOUT LAWFUL
AUTHORITY, VOID AB-INITIO AND
AGAINST THE STATUTORY LAWS/RULES
WITH FURTHER SUBMISSION THAT MAY
KINDLY RE-INSTATE THE APPELLANT IN
ITS ORIGINAL POSITION WITH ALL
BENEFITS & PROMOTION WHATSOEVER
ETC IN THE BEST INTEREST OF JUSTICE &
FAIR PLAY.

- (ii) ANY OTHER RELIEF/REMEDY WHICH THIS
HON'BLE TRIBUNAL DEEMS FIT AND
APPROPRIATE MAY ALSO BE GRANTED
IN FAVOUR OF APPELLANT.

Respectfully Sheweth:

1. That the appellant has joined the Department of Executive District Officer Elementary & Secondary Education, Nowshera on dated 28.01.2012 as Chowkidar in BPS 01 and thereafter has started career with zeal and dedication and served public at large and department with best of abilities and full satisfaction of superior since appointment, it is also pertinent to mention here that since the

- appointment of the appellant he had never given any chance to even a minor complaint to his high-ups and has rendered his services with passion and keenness... (Copy of Appointment order dated 28.01.2012 annexed as Annexure "A")
2. That the appellant was initially transferred from GGHS Nizampur to GPS Aso Khel vide office order No.990-94/DEO (M) NSR/EA-S/Estab (Secy) mutual transfer/NSR dated 26.03.2015. (Copy of office order dated 26.03.2015 annexed as Annexure "B")
 3. That thereafter the appellant was illegally transferred from GPS Aso Khel Nowshera to GPS Kahi No.1, Nowshera on need basis vide office order No.5286-91/DEO (M) NSR/Estab, Bran/Transfer/Deput (M) dated 03.04.2018. (Copy of office order dated 03.04.2018 annexed as Annexure "C")
 4. That the appellant again illegally transferred from GPS No.1-Kahi to the GPS No.2 Kahi on need basis vide office order No.2294-96SDEO (M) Adjustment/C-IV dated 28.09.2020. (Copy of office order dated 28.09.2020 annexed as Annexure "D")

5. That the appellant vide office order No.1579-85/DEO (M) NSR/Estab. Branch/Mutual Transfer/ (M) dated 28.07.2021 has transferred the appellant from GPS Aso Khel to GHS Garu to which the appellant has impugned the said order before this Hon'ble Tribunal. It is worth to mention here that in the said case before the Service Tribunal, the Department concerned through its representative regularly appearing before the Hon'ble Tribunal. (Copy of office order dated 28.07.2021, Departmental Appeal and Appeal before this Hon'ble Tribunal annexed as Annexure "E" & "F").
6. That in a meanwhile during the pendency of the said service appeal the respondent No.02 has passed the impugned decision/order for compulsory retirement of the appellant which is not only against law but also ineffective upon the rights of the appellant. It is worth to mention here that no Charge Sheet whatsoever has served upon the present appellant and even no proper inquiry has conducted and the said impugned order/decision was passed by the respondent No.02 in haste manner and the said impugned order/decision has passed in violation of the statutory laws of the land.

(5)

Moreover, in the light of impugned orders the appellant has withdrawn his service appeal (which he has filed against his illegal transfer order): (Copy of impugned order dated 20.05.2024 passed by the respondent No.02 annexed as Annexure "G")

7. That feeling aggrieved from the above-said impugned order/decision of the respondent No.02 the appellant has filed Departmental Appeal before the respondent No.01 which was dismissed vide impugned order-in-appeal dated 09.10.2024. (Copy of impugned order-in-appeal dated 09.10.2024 passed by the respondent No.01 annexed as Annexure "H")
8. That now the appellant has no other adequate and efficacious remedy except to file the instant Service Appeal before this Hon'ble Tribunal on the following grounds inter alia;

G R O U N D S

- A. That the impugned orders issued by the respondent No.01 & 02 are illegal, unlawful, without lawful authority and ineffective upon the rights of the appellant.

(6)

- B. That the impugned orders issued by the respondents No.01 & 02 are arbitrary, fanciful and without lawful authority.
- C. That during the pendency of the service appeal for illegal transfer order the respondent No.02 has passed the impugned decision/order for compulsory retirement of the appellant which is not only against law but also ineffective upon the rights of the appellant. It is worth to mention here that no Charge Sheet whatsoever has served upon the present appellant and even no proper inquiry has conducted and the said impugned order/decision was passed by the respondent No.02 in haste manner and the said impugned order/decision has passed in violation of the statutory laws of the land.
- D. That the very purpose of the respondents is to protect the rights of its employees
- E. That other grounds will be raised at the time of arguments with the prior permission of this Hon'ble Tribunal.

It is, therefore, prayed that on acceptance of this appeal may graciously

- (i) **SET ASIDE THE IMPUGNED ORDER-IN-APPEAL DATED 09.10.2024 PASSED BY THE RESPONDENT No.01 AS WELL AS IMPUGNED OFFICE ORDER DATED 20.05.2024 PASSED BY THE RESPONDENT NO.02 AND DECLARE THE**

(7)

SAID IMPUGNED ORDERS ILLEGAL,
UNLAWFUL, WITHOUT LAWFUL AUTHORITY,
VOID AB-INITIO AND AGAINST THE
STATUTORY LAWS/RULES WITH FURTHER
SUBMISSION THAT MAY KINDLY RE-INSTATE
THE APPELLANT IN ITS ORIGINAL POSITION
WITH ALL BENEFITS & PROMOTION
WHATSOEVER ETC IN THE BEST INTEREST OF
JUSTICE & FAIR PLAY.

- (ii) ANY OTHER RELIEF/REMEDY WHICH THIS
HON'BLE TRIBUNAL DEEMS FIT AND
APPROPRIATE MAY ALSO BE GRANTED IN
FAVOUR OF APPELLANT

Through Appellant



Saeed Roman
Advocate High Court

BEFORE THE SERVICE TRIBUNAL K.P.K., PESHAWAR

Amir KhanAppellant

Versus

Govt. of K.P.K., through Secretary Elementary & Secondary
Education, Peshawar & others.....Respondents

AFFIDAVIT

I, Amir Khan do hereby solemnly affirm and declare on oath that contents of the accompanying Service Appeal are true and correct to the best of my knowledge and belief and nothing has been kept concealed from this Hon'ble Tribunal.


Deponent



A

**EXECUTIVE DISTRICT OFFICER
ELEMENTARY & SECONDARY EDUCATION
NOWSHERA**

NOTIFICATION

Consequent upon the recommendation of District Departmental Selection committee (DDSC) the competent authority is pleased to appoint Mr. Aamir Khan S/O Mr. Nazar Bad Shah as Chowkidar in BR-01(4800-150-9300) at GGHS Nizampur NSR. Plus usual allowances as admissible under the rules on regular basis (but without pension and gratuity) against vacant post in the interest of public service with immediate effect

TERMS & CONDITIONS


1. The appointee will get in scale including usual allowances as admissible under the rules. He is entitled for annual increment after completion of one year service; however he is not eligible for pension and gratuity as per current policy of the Govt. of Khyber Pakhtunkhwa.
2. His Services will be considered as per current rules and regulation of the Khyber Pakhtunkhwa.
3. His services are liable to be terminated on one month's prior notice from either side. In case of resignation without prior notice one month pay and allowances, if any shall be forfeited in favor of Govt. through challan.
4. Contribution of CP Fund will be made as per rules and regulations of Govt. of Khyber Pakhtunkhwa.
5. The appointee should join their post within 15 days of the issuance of this order positively otherwise the appointment shall stand cancelled.
6. His services can be terminated at any time in case his performance is found unsatisfactory and he will be removed from service under the rules framed from time to time.
7. The Principals/Head Masters/Head Mistress concerned should personally check their original certificates, degrees, domiciles and CNIC before handing over charge.
8. Health and age certificate should be provided from the Medical Superintendent before taking over charge.
9. Overage candidates should not be handed over charge.
10. Charge report should be submitted to all concerned.
11. No TA/DA etc. shall be allowed to the appointee for joining his duties.

(HAJI HASANAT GUL KAHTAK)
EXECUTIVE DISTRICT OFFICER
ELEMENTARY & SECONDARY EDUCATION
NOWSHERA

Endst No. 3241-45 /EDO (E&SE NSR/Establishment Branch Dated: 28/1/2012)

Copy forwarded for information and necessary to the:-

1. District Coordination Officer Nowshera.
2. District Accounts Officer Nowshera.
3. District Officer (F) E&S Education Nowshera.
4. Superintendent & DA Establishment local office.
5. All Concerned.


EXECUTIVE DISTRICT OFFICER
ELEMENTARY & SECONDARY EDUCATION
NOWSHERA



(18) B

**OFFICE OF THE
DISTRICT EDUCATION OFFICER (M/F)
NOWSHERA**

(Office Phone#0923-9220228 Fax#0923-9220228)

OFFICE ORDER

The competent authority is please to order the mutual transfer of following C-IV working in the schools noted against their names & schools on their own pay and scale in the best interest of public service with immediate effect.


Sl	Mr. Name of Officials, & Desig	Present place of Duty	Transferred to	Remarks
01	Mr. Amir Khan Chowkidar	CGHS Nizampur	GPS Aso Khel	Vice No.2
02	Mr. Raza Khan Chowkidar	GPS Aso Khel	CGHS Nizampur	Vice No.1

(Muhammad Inam Toru)
District Education Officer (Male)
Nowshera

Endstt: No. 990-94 /DEO (M) NSR/EA-S/Estab (Secy)/Mutual Transfer // NSR the Dated 26 / 03 / 2015

Copy of the above is forwarded for information & necessary action to the:

1. Senior District Accounts Officer Nowshera
2. District Education Officer (F) NSR
3. Sub Divisional Education Officer (M) NSR
4. ASDEO(M) Circle Khairabad NSR
5. Official concerned


District Education Officer
(M/F) Nowshera

25/3/15



OFFICE OF THE DISTRICT EDUCATION
OFFICER(M) NOWSHERA

(Office Phone#0923-9220228. Fax#0923-9220228)

OFFICE ORDER.

The Competent authority is pleased to Adjust Mr. Aamir Khan
Chowkidar GPS Aso Khel Nowshera at GPS Kahi Nowshera on need basis till further order.

Note: - No TA/DA is not allowed.
Charge report should be submitted to all concerned.

(FAYAZ HUSSAIN)
DISTRICT EDUCATION OFFICER
(M) NOWSHERA

Endstt: No _____/DEO (M) NSR/Estab: Bran/ Transfer / Deput / (M) dated: 2/08/2018
Copy forwarded for information to the:-

- 1 Sub Divisional Education Officer (M) Nowshera/Jehangira
- 2 ASDEO Concerned Circle
- 3 Head Master Concerned Schools.
- 4 DMO Nowshera.
- 5 Official Concerned.
- 6 Office Copy
- 7 EMIS Local Office.

DISTRICT EDUCATION OFFICER
(M) NOWSHERA



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"D"

OFFICE OF THE
SUB DIVISIONAL EDUCATION OFFICER (MALE)
JEHANGIRA NOWSHERA
(sdeom123@gmailcom)

OFFICE ORDER

Mr. Amir Khan Chowkidar GPS No 1 Kahi is hereby temporally adjusted on his own pay and scale at GPS No 2 Kahi on administrative ground (on the report of Head Teacher GPS No 1 Kahi and recommendation of ASDEO Circle Khair Abad) till further order with immediate effect in the best interest of public service. He is further directed to report to the Head Teacher GPS No 2 Kahi.

No TA/DA is allowed

Charge report should be submitted to all concerned.

Sub Divisional Education Officer
(Male) Jehangira Nowshera

Endstt; No. 2294-96 SDEO (M) Adjustment/C-IV Dated; 28 /09 /2020

Copy of the above is forwarded for information and necessary action to the;

1. ASDEO Circle Khair Abad.
2. Head Teacher School concerned
3. Office file,
4. Official concerned.

Sub Divisional Education Officer
(Male) Jehangira Nowshera
[Signature]
28/09/2020

"E"

13

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OFFICE OF THE
DISTRICT EDUCATION OFFICER (MALE)
NOWSHERA

(Office Phone & Fax 0923-9220228, Email deomalensr@gmail.com)

OFFICE ORDER.

The Competent authority is pleased to order the transfer of the following Chowkidar working in the Schools noted against their names in their own pay and grade in the Interest of public service with immediate effect.

S.No	Name of Officials	Name of School	Transfer to	Remarks
1	Mr. Sadiq Shah Chowkidar	GHS Garu	GPS Aso Khel	Vice S. No: 2
2	Mr. Aamir Khan Chowkidar	GPS Aso Khel	GHS Garu	Vice S. No: 1

GPS No. (1) / 1441 OR GPS No. (2) / 1441

Note: - TA/DA is not allowed.
Charge report should be submitted to all concerned.

(SHAH JEHAN)
DISTRICT EDUCATION OFFICER (M)
NOWSHERA.

Endstt: No. 1574-85 / DEO (M) NSR/Estab: Branch/Mutual Transfer / (M) dated: 28/07/2021.
Copy forwarded for information to the:-

1. District Account Officer Nowshera.
2. Principal/Head Master concerned School.
3. Sub-Divisional Education Officer (M) Concerned
4. ASDEO Concerned Circle
5. DMO Nowshera.
6. EMIS Branch
7. Accountant Concerned
8. Official Concerned.
9. Office Copy

Handwritten notes:
Rashid C. Min
Cancel the order PS
105/8/21

DISTRICT EDUCATION OFFICER (M).
Nowshera

Handwritten signature and date:
28/07/21

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Dairy No. 4052

SDBO (M) Jehangir

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To,

District Education Officer
(Male) Nowshera

SUBJECT:-

DEPARTMENTAL APPEAL AGAINST THE IMPUGNED ORDER DATED 28.7.2021 PASSED BY THE DISTRICT EDUCATION OFFICER (MALE) NOWSHERA

PRAYER-IN-APPEAL: -On Acceptance of the instant Appeal this Learned
fourmmay Graciously be pleasedto

A. Set-aside the impugned office order dated 28.7.2021 passed by the District Education Officer (Male)Nowshera

Respected Sir:-

1. That the appellant is serving as chowkidar in GPS Aso Khel, Nowshera

GROUNDS:-

- A. That appellant since the day of appointment performing his duties professionally and due diligently and not even single complaint has been made against appellant since the day of appointment
- B. That the said impugned order mentioned-above has been passed without any rhyme and reason, without any complaint thus the impugned order is based on collusion.
- C. That the family of the appellant is residing within the territorial jurisdiction of the Asokheil Nowshera
- D. That the children's of the appellant are also studying within the parameters of Asokheil Nowshera and due to the transfer/postage of appellant it would be difficult for the children's of the appellant to continue their studies. Thus due to the said transfer order not only the appellant but his family and childrens would suffer irreparable loss
- E. That it is well settled principle "where the family of the employee residing then he will continue working at the same place"

F. It is therefore humbly requested that may kindly declare the impugned order dated 28.7.2021 illegal, unlawful, without lawful authority and void ab initio and let the appellant to continue his services in Aso kheil Nowshera

In view of the above it is therefore most humbly prayed that on acceptance of the appeal-in-hand this Learned Forum may graciously be pleased to

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- A. Set-aside the impugned Officeorder Dated 28.7.2021 Oder No 1579-85 passed by the District Education Officer (Male) Nowshera the Appellant from chowkidar GGGPS Asokhel Tehsil Jehangira district Nowshera to GHS GaruNizampur
- B. Appellant may graciously be retained at her previous place posting salary and all benefists.
- C. Any other relief/ remedy which this learned fourm deems fit and appropriate may also be granted in favour of Appellant.

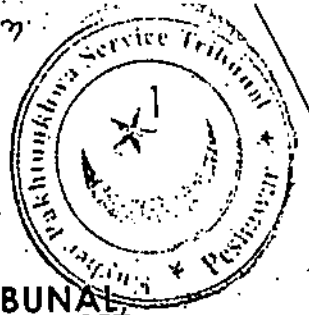
Appellant

امیر خان
17/8/2-21

Amir Khan
CHOWKIDAR GGPS
AsoKheil NOWSHERA

For and to:

1. SDEO (MALE) TEHSIL JEHANGIRA NOWSHERA



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. _____/2021

Khyber Pakhtunkhwa
Service Tribunal

Copy No. 7553

Date 13/09/2021

Amir Khan (Chowkidar) Son of Nazar Badshah,
Govt. High School, Garu,
Tehsil. Jehangira District Nowshera

.....Appellant

V E R S U S

1. District Education Officer (Male) District Nowshera
2. District Account Officer, Nowshera
3. Principal/Head Master ~~concerned School~~ *Aso Kheil School*
District Nowshera
Nizamul Tehsil Jehangira
4. Sub Divisional Education Officer (M) Concerned
District Nowshera.....Respondents

SERVICE APPEAL U/S 4 OF THE KHYBER
PAKHTUNKHWA SERVICES TRIBUNAL ACT,
1974, AGAINST THE IMPUGNED
NOTIFICATION/OFFICE NO.1579-85/DEO
(M) NSR/ESTAB. BRANCH/MUTAL
TRANSFER/(M) DATED 28.07.2021
WHEREBY THE APPELLANT WAS
TRANSFERRED FROM G.P.S ASO KHEL TO
GHS GARU

Filed to-day

Registrar

13/9/2021

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

PRAYER IN APPEAL

On acceptance of the instant Service Appeal this learned Court may graciously be pleased to

- a) Set aside the impugned Office No.1579-85/DEO (M) NSR/Estab. Branch/Mutal Transfer/(M) dated 28.07.2021 and be declared as illegal, unlawful, without lawful authority and thus is of no legal effect and hence liable to be reversed.
- b) An appropriate direction be issued to respondent to withdraw/recall the impugned Office No.1579-85/DEO (M) NSR/Estab. Branch/Mutal Transfer/(M) dated 28.07.2021.
- c) The respondents be directed to restore-back the Appellant at his previous post alongwith all back benefits accrued to the appellant.
- d) Any other relief, not specifically prayed for in the circumstance of the case may also be passed in favour of the Appellant.

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Respectfully Sheweth:

That the Appellant very implore for permission to plead his grievances at the hands of respondents and seeks solace thereto, as follows:

1. That the Appellant joined the Department of Executive District Officer Elementary & Secondary Education, Nowshera on dated 28.01.2012 as Chowkidar in BPS-01 and thereafter has started career with zeal and dedication and served public at large and department with best of abilities and full satisfaction of superior since appointment, it is also pertinent to mention here that since the appointment of Appellant he had never given any chance to even a minor complaint to his high-up's and has rendered his services with passion and keenness. (Copy of Appointment order dated 28.01.2012 is attached as annexure "A").
2. That the appellant was initially transferred from GGHS Nizampur to GPS Aso Khel vide office order No.990-94/DEO (M) NSR/EA-S/Estab (Secy) mutual



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transfer/NSR dated 26.03.2015. (Copy of Office Order dated 26.03.2015 is attached as Annexure "B").

3. That thereafter the Appellant was illegally transferred from GPS Aso Khel Nowshera to GPS Kahi No.1, Nowshera on need basis vide Office Order No.5286-91/DEO (M) NSR/Estab. Bran/Transfer/Deput (M) dated 03.04.2018 (Copy of Office Order dated 03.04.2018 is attached as annexure "C").
4. That the appellant again illegally transferred from GPS No.1 Kahi to the GPS No.2 Kahi on need basis vide Office Order No.2294-96SDEO (M) Adjustment/C-IV dated 28.09.2020. (Copy of Office order dated 28.09.2020 is attached as Annexure "D").
5. That the appellant vide impugned Office Order No.1579-85/DEO (M) NSR/Estab. Branch/Mutual Transfer/ (M) dated 28.07.2021 has transferred the appellant from GPS Aso Khel to GHS Garu which is totally illegal, unlawful, without lawful authority and void ab-initio as the said impugned order has been passed without any rhyme and reason.

without any complaint, thus the impugned order is based on collusion. Moreover the family of the Appellant is residing within the territorial jurisdiction of the Aso Khel, Nowshera and the children's of the appellant are also studying Aso Khel, Nowshera and due to the said transfer/posting of appellant it would be difficult for his children's to continue their studies, thus due to the said transfer/posting not only the appellant but his family would suffer irreparable loss. (Copy of Impugned Office order dated 28.07.2021 is attached as annexure "E").

6. That the appellant vide Dairy No.4052 SDEO (M) Jehangira dated 17.08.2021 has filed Departmental Appeal which is still pending. Similarly the Appellant also filed Departmental Appeal vide Dairy No.631956 dated 30.08.2021 before the respondent No.1 which is also still pending. (Copies of Departmental Appeals are attached as Annexure "F").
7. That now the appellant has no other adequate remedy except to file the instant Service Appeal on the following grounds amongst others:

~~10~~ ~~6~~

(21)

GROUNDS:

- A. That the impugned impugned Office Order No.1579-85/DEO (M) NSR/Estab. Branch/Mutual Transfer/ (M) dated. 28.07.2021 is illegal, wrong, based on malafide, without cogent reasons based on political high handedness and fundamental rights of the Appellant, hence liable to be struck down and reversed.
- B. That neither the Appellant has committed any wrong nor has completed his tenure therefore, on this score alone the impugned transfer order needs to be reversed as it was purely made on malafide and intervention of the local politicians whereas it is high time that the trend of seeking interference and intervention of such like political figures be discouraged in line with the dictum so laid down by the superior judiciary.
- C. That, the transfer and posting policy approved by the competent authority says that all postings/ transfers shall be strictly in public interest for **three years** and shall not be abused and misused to victimize the government servant however, most unfortunately, the government servants are always been made scapegoat so as to please

the ruling party figures. It is important to mention the that the Appellant had hardly completed 10 months tenure on the same post whilst transferred on the behest of the political leaders.

- D. That there are placement committees in different departments who recommend different officers to be posted and transferred against different posts but most unfortunately in case of the Appellant none has been contacted and consulted about and all of a sudden in hasty and hefty manner impugned transfer order was issued.
- E. That the impugned notification has resulted into visible injustice to the Appellant, as the impugned transfer dated 28.07.2021 has been passed without any legal or plausible justification, hence liable to be reserved and set aside on the aforementioned grounds.
- F. That the August Supreme Court of Pakistan has held in the case of Syed Mamood Akhtar Naqvi etc Vs Federation of Pakistan and others, reported as PLD 2013 Supreme Court 195 that matter of posting and transfer of civil servants

cannot be allowed to be dealt with in an arbitrary manner.

- G. That the said respondent has got no authority whatsoever to issue such an illegal transfer order.
- H. That the respondents are travelling way beyond the scope and approach adopted for others thus the approach adopted for the Appellant is in violation of the Article-10-A and 25 of the Constitution of Islamic republic of Pakistan, 1973.
- I. That the impugned order is without jurisdiction and is clearly a colorful exercise of authority.
- J. That even, otherwise, this Hon'ble Tribunal being the constitutional court of the province is vested with the authority and jurisdiction to provide efficacious and appropriate remedy to the Appellant.
- K. That any other grounds will be raised at the time of arguments with the prior permission of this Hon'ble Tribunal.

It is, therefore humbly prayed that on acceptance of this Service Appeal.

- a) Set aside the impugned Office No.1579-85/DEO (M) NSR/Estab. Branch/Mutal. Transfer/(M) dated 28.07.2021 and be declared as illegal, unlawful, without lawful authority and thus is of no legal effect and hence liable to be reversed.
- b) An appropriate direction be issued to respondent to withdraw/recall the impugned Office No.1579-85/DEO (M) NSR/Estab. Branch/Mutal Transfer/(M) dated 28.07.2021.
- c) The respondents be directed to restore-back the Appellant at his previous post alongwith all back benefits accrued to the appellant.
- d) Any other relief, not specifically prayed for in the circumstance of the case may also be passed in favour of the Appellant.


Appellant

Through



Saeed Roman
Advocate High Court

Dated 10.09.2021

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10

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2021

Amir Khan.....Appellant

V E R S U S

District Education Officer
(Male) District Nowshera & others.....Respondents

A F F I D A V I T

I, Amir Khan (Chowkidar) Son of Nazar Badshah; Govt. High School, Garu, Tehsil Jehangira District Nowshera, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

Identified by



Saeed Roman
Advocate High Court

Amir Khan
10-9-21

DEPONENT



Amir Khan


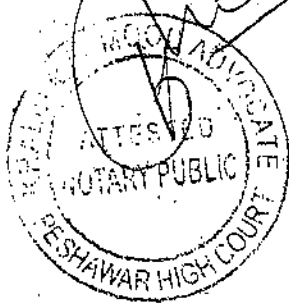
19/11/11

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CERTIFICATE

It is certified on oath that no such like Appeal has filed before this Hon'ble Tribunal regarding the present subject matter



 DEPONENT
 17201-6573398-5
 0308-8303031



OFFICE OF THE
DISTRICT EDUCATION OFFICER (MALE)
NOWSHERA

(Office Phone & Fax 0923-9220228, Email deo@nowshera.gov.pk)



NOTIFICATION:-


1. Whereas, Aamir Khan, Chowkidar, of GPS Aso Khel Nowshera, was transferred to GHS Garu Nizampur vide order No. 1579-85 Dated: 28/07/2021.
2. And whereas, Aamir Khan, Chowkidar, of GPS Aso Khel Nowshera, did not comply with the order of the DEO (M) Nowshera and continued performing his duties at GPS No.1 Kahi till 08/09/2021.
3. And whereas, Aamir Khan, Chowkidar, of GPS Aso Khel Nowshera, was continuously absent from duty since 09/09/2021 without any prior permission from the undersigned.
4. And whereas, An Inquiry was conducted against the absent Chowkidar to probe into the matter and submit detail report to the undersigned.
5. And whereas, the inquiry officer submitted the inquiry report vide No. 136 Dated: 04/12/2023 with the recommendations:
 - i. Mr. Aamir Khan Chowkidar GPS Aso Khel Nowshera, may be proceeded against the charges of being guilty of misconduct and habitually absenting himself from duty without prior approval of leave and major penalty of "Compulsory Retirement" may be imposed upon him with immediate effect under rule 4(b(ii)) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.
6. And whereas, show cause notice was issued to him vide this office Endst: No.4610-12 Dated 26/03/2024 with the direction to submit reply and also intimate if desired to be heard in person, otherwise he will be proceeded under E & D rules 2011, under major penalty section 4(b)(ii).
7. And whereas, Aamir Khan, Chowkidar, of GPS Aso Khel Nowshera, submitted show cause reply vide this office diary No. 7260 Dated: 4/4/2024, which was unsatisfactory as no justification for his prolong absences was given.
8. Now therefore, Ongoing through the finding and recommendation of the inquiry officer, the material on record and other connected papers including your defense before the inquiry officer. In exercise of the powers conferred upon me by the Khyber Pakhtunkhwa Govt: servant (Efficiency & Disciplinary) rules, 2011. I Mr. Shah Jehan DEO(M) Nowshera being the competent authority is pleased to impose major penalty of "Compulsory Retirement" upon you with immediate effect under rule 4(b(ii)) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

(SHAH JEHAN)
DISTRICT EDUCATION OFFICER (M)
NOWSHERA

Endstr: No. 5818-24 /DEO (M) NSR/Estab: Pry/Notification/ Dated Nowshera the 201 /5/2024.

Copy forwarded for information to the:-

1. Director Elementary & Secondary Education, KPK Peshawar.
2. Dy: District Education Officer (M) Nowshera.
3. Senior District Account Officer Nowshera.
4. District Monitoring Officer Nowshera.
5. SDEO (M) Jehangira.
6. ASDEO (M) Circle Khairabad.
7. Mr. Aamir Khan Ex-Chowkidar GPS Aso Khel.
8. Office Copy.


DISTRICT EDUCATION OFFICER (M)
NOWSHERA



DIRECTORATE OF ELEMENTARY & SECONDARY EDUCATION
KHYBER PAKHTUNKHWA PESHAWAR.

29

No. _____ /A-20/Class-IV/Nowshera/Amir Khan Chowkidar/Nowshera

Dated Peshawar the _____ /2024

Phone: 091-9225344

Email: ddadmn.ese@gmail.com

To

The District Education Officer,
(Male), Nowshera.

Subject: **DEPARTMENTAL APPEAL FOR RE-INSTATMENT**
Memo:

I am directed to refer to the subject cited above and to enclose herewith a copy of self-explanatory appeal submitted by **Mr. Amir Khan**, Ex-Chowkidar GPS Aso Khel, Nowshera regarding his re-instatment.

You are therefore directed to inform the appellant that his appeal has been examined/analyzed by this Office and **rejected** by the appellate authority.

sd/-

Assistant Director (Admn)

Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

Endst; No. 7918 /

Copy forwarded to the: -

1. **Mr. Amir Khan**, Ex-Chowkidar GPS Aso Khel, Nowshera
2. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
3. Master File

A Bani 9/10/2024
Assistant Director (Admn)

Directorate E& Secondary Education
Khyber Pakhtunkhwa, Peshawar

[Signature]

29(A)

BEFORE THE DEPARTMENTAL APPELLATE AUTHORITY, District Office
(ErSE) Khattak PAKHTUNKHWA, PESHAWAR

Amir Khain (Chowkidar): GPS Asa Khel, Nowshera

Appellant

V E R S U S

1. District Education Officer (M), Nowshera
2. Dy: District Education Officer (M), Nowshera
3. Senior District Account Officer, Nowshera
4. District Monitoring Officer, Nowshera
5. SDEO (M) Jehangira, Nowshera
6. ASDEO (M) Circle, Kheirabad, Nowshera

Respondents

DEPARTMENTAL APPEAL AGAINST THE
IMPUGNED OFFICE ORDER NO.5618-
24/DEO(M)NSR/ESTAB:PRY/NOTIFICATION
DATED NOWSHERA 20/05/2024 ISSUED BY
THE RESPONDENT NO.01

Prayers-In-Appeal

ON ACCEPTANCE OF THE INSTANT DEPARTMENTAL
APPEAL THIS LEARNED FORUM MAY GRACIOUSLY
BE PLEASED TO

- (i) SET ASIDE THE IMPUGNED OFFICE
ENDSTT DECISION/ORDER NO.5818-
24/DEO(M)NSR/ESTAB:PRY/NOTIFICATI
ON/DATED NOWSHERA 20/05/2024
ISSUED BY THE RESPONDENT NO.01 AND
DECLARE THE SAID IMPUGNED
DECISION/ORDER ILLEGAL, UNLAWFUL,
WITHOUT LAWFUL AUTHORITY, VOID
AB-INITIO AND AGAINST THE
STATUTORY LAWS/RULES WITH FURTHER
SUBMISSION THAT MAY KINDLY RE-
INSTATE THE APPELLANT IN ITS ORIGINAL
POSITION WITH ALL BENEFITS &
PROMOTION WHATSOEVER ETC IN THE
BEST INTEREST OF JUSTICE & FAIR PLAY.
- (ii) ANY OTHER RELIEF/REMEDY WHICH THIS
LEARNED FORUM DEEMS FIT AND
APPROPRIATE MAY ALSO BE GRANTED
IN FAVOUR OF APPELLANT

Respectfully Sheweth:

1. That the appellant has appointed as Chowkidar in
BPS 01.

2. That the appellant has impugned the transfer order before the Hon'ble Service Tribunal, Khyber Pakhtunkhwa, Peshawar to which next date of hearing is fixed as-10.06.2024. It is worth to mention here that in the said case before the Service Tribunal, the Department concerned through its representative regularly appearing before the Court.
3. That in a meanwhile during the pendency of the said appeal the respondent No.01 has passed the impugned decision/order for compulsory retirement of the appellant which is not only against law but also ineffective upon the rights of the appellant.
4. That no Show Cause Notice whatsoever has served upon the present appellant and even no proper inquiry has conducted and the said impugned order/decision was passed by the respondent No.01 in haste manner and the said impugned order/decision has passed in violation of the statutory laws of the land.
5. That feeling aggrieved from the above-said impugned order/decision of the respondent No.01

29(D)

now the appellant has no other adequate and efficacious remedy except to file the instant Departmental Appeal on the following grounds inter alia;

GROUNDS

- A. That the impugned decision/order issued by the respondent No.01 is illegal, unlawful, without lawful authority and ineffective upon the rights of the appellant.
- B. That the impugned decision/order issued by the respondents No.01 is arbitrary, fanciful and without lawful authority.
- C. That no Show Cause Notice whatsoever has ever been served upon the appellant and no regular inquiry has ever been conducted and the said impugned decision/order has passed in violation of the statutory laws of the land.
- D. That the very purpose of the respondent is to protect the rights of its employees
- E. That other grounds will be raised at the time of arguments with the prior permission of this Learned Forum.

In view of the above it is, therefore most humbly prayed that on acceptance of the instant Appeal this Learned Forum may graciously be pleased to

29(E)

(i) SET-ASIE THE IMPUGNED OFFICE ENDSTT
DECISION/ORDER NO:5818-24/DEO(M)NSR/
ESTAB:PRY/NOTIFICATION/DATED NOWSHERA
20/05/2024 ISSUED BY THE RESPONDENT
NO.01 AND DECLARE THE SAID IMPUGNED
DECISION/ORDER ILLEGAL, UNLAWFUL,
WITHOUT LAWFUL AUTHORITY, VOID AB-INITIO
AND AGAINST THE STATUTORY LAWS/RULES
WITH FURTHER SUBMISSION THAT MAY KINDLY
RE-INSTATE THE APPELLANT IN ITS ORIGNAL
POSITION WITH ALL BENEFITS & PROMOTION
WHATSOEVER ETC IN THE BEST INTEREST OF
JUSTICE & FAIR PLAY

(ii) ANY OTHER RELIEF/REMEDY WHICH THIS
LEARNED FORUM DEEMS FIT AND
APPROPRIATE MAY ALSO BE GRANTED IN
FAVOUR OF APPELLANT

Through

Ulgate
29/5/2024
Appellant

50	G0383	پشاور بار ایسوسی ایشن، خیبر پختونخواہ
ایڈوکیٹ:		PESHAWAR BAR ASSOCIATION
بار کونسل ایسوسی ایشن نمبر: 6x-11-1490		
رابطہ نمبر: 0311-9066616		

بعدالت جناب: محمد سعید رضوان

مخانب: Appellant	دعویٰ:
عامضان	علت نمبر:
بنام	مورخہ:
گورنمنٹ آف KP ونڈو	جرم:
	تھانہ:

باعت تحریر آگہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ آن مقام پشاور کیلئے محمد سعید رضوان کو وکیل مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ برحلف 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 ایجیل کی برآمدگی اور منسوخی، نیز دائر کرنے ایجیل نگرانی و نظرتانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب مقرر شدہ کو وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے اور اس کا ساختہ پر داخنتہ 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 ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم: 14/10/2024

العبد گواہ شد العبد

مقام: پشاور کے لیے منظور ہے۔

Saeed Raza

علی خان عاصم خان

(En - chukidac) (BPS-01)