



Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 6106 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	16/06/2021	<p>The appeal of Mr. Shah Jehan presented today by Mr. Muhammad Asif Yousafzai Advocate, may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	18.06.2021	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>18/06/2021</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p>Appellant with counsel present. Preliminary arguments heard. The appeal is within time.</p> <p>The appellant has impugned transfer order. As per the available record annexed with the Memorandum of appeal, the appellant within a short span of time has been transferred thrice. Firstly he was transferred from DHQ Hospital Charsaada to DGHS office Peshawar vide order dated 08.12.2020 and then transferred back to DHQ Hospital Charsadda vide order dated 06.01.2021 and again transferred from DHQ Hospital Charsadda to Sarhad Hospital for Psychiatric Diseases Peshawar vide order dated 10.06.2021.</p>

Learned counsel for the appellant contends that the appellant is at the verge of retirement as he is soon reaching to the age of superannuation within few months. Therefore, the appeal is admitted for regular hearing being arguable case. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the ^{incomplete} file with a report of non-compliance. File to come up for arguments on 14.07.2021 before the D.B.

Appellant Deposited
Security & Process Fee

18/4/21

As the appellant has impugned transfer order as discussed above and considering the grounds of appeal to the extent of retirement of appellant, balance of convenience seem to be tilted in favour of the appellant. Therefore, the impugned order shall remain under suspension, to the extent of present appellant, till final disposal of this appeal subject to notice to the respondents.



Chairman

14.07.2021

Appellant present through counsel.

Javid Ullah learned Assistant Advocate General for respondents present.

Case was fixed for arguments in pursuance to the direction for submission of written reply within 10 days given on 18.06.2021, however neither comments were filed within stipulated time nor any request was made for extension of time. In case, the respondents failed to submit comments within further extended time of 10 days from today, they shall have to seek extension of time through application citing sufficient reasons. Otherwise, their right for submission of written reply/comments shall stand ceased. To come up for arguments on 09.08.2021 before D.B. Impugned order shall remain suspended, to the extent of appellant, till final disposal of this appeal.



(Rozina Rehman)
Member (J)



Chairman

~~14.07.2021~~
~~Appellant present through counsel.~~
~~Javid Ullah learned Assistant Advocate General for respondents present.~~
~~Case was fixed for arguments in pursuance to the direction for submission of written reply within 10 days given on 18.06.2021, however neither comments were filed within stipulated time nor any request was made for extension of time. In case, the respondents failed to submit comments within further extended time of 10 days from today, they shall have to seek extension of time through application citing sufficient reasons. Otherwise, their right for submission of written reply/comments shall stand ceased. To come up for arguments on 09.08.2021 before D.B. Impugned order shall remain suspended, to the extent of appellant, till final disposal of this appeal.~~
~~(Rozina Rehman)~~
~~Member (J)~~
~~Chairman~~

09.08.2021

Appellant present through counsel.

Javid Ullah learned Assistant Advocate General alongwith Zia Ullah Law Officer for respondents present.

Reply submitted which is placed file. A request for adjournment was made on behalf of appellant; granted. To come up for arguments on 12.08.2021 before D.B. Impugned order shall remain suspended, to the extent of appellant, till final disposal of this appeal.



(Rozina Rehman)
Member (J)



Chairman

12.08.2021

Counsel for appellant present.

Mr. Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Former made a request for adjournment Request is accorded. To come up for arguments on 31.08.2021 before D.B.



(Rozina Rehman)
Member (J)



Chairman

31.08.2021

Due to summer vacations, the case is adjourned to 15.09.2021 for the same as before.



READER

15.09.2021

Counsel for appellant present.

Muhammad Adeel Butt learned Additional A.G for respondents present.

Former made a request for adjournment; granted. To come up for arguments on 28/10/21 before D.B.



(Rozina Rehman)
Member (J)



Chairman

ORDER

28.10.2021

Appellant alongwith his counsel present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Jafar Ali, Assistant for respondents present. Arguments heard and record perused.

Judgment

Vide our detailed order of today placed on file, we are left with no option but to set aside impugned orders dated 10.06.2021 and 15.06.2021 allowing the appellant to continue at DHQ Hospital Charsadda till his date of superannuation falling on 15.12.2021. Parties are left to bear their own cost. File be consigned to the record room.

Announced:

28.10.2021

(Mian Muhammad)
Member(E)

(SALAH-UD-DIN)
MEMBER(J)

ORDER

28.10.2021

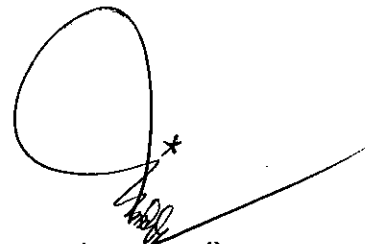
Appellant alongwith his counsel present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Jafar Ali, Assistant for respondents present. Arguments heard and record perused.

Vide our detailed judgement of today placed on file, we are left with no option but to set aside impugned orders dated 10.06.2021 and 15.06.2021 allowing the appellant to continue at DHQ Hospital Charsadda till his date of superannuation falling on 15.12.2021. Parties are left to bear their own cost. File be consigned to the record room.

Announced:
28.10.2021



(SALAH-UD-DIN)
MEMBER(J)




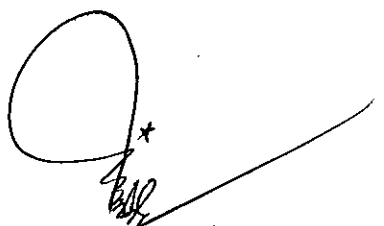
(Mian Muhammad)
Member(E)

transferred from DHQ Hospital Charsadda to Sarhad Hospital for Psychiatric Diseases Peshawar under office order dated 10.06.2021. In this way, the appellant was transferred thrice in a short span of six months. It is also evident from record that the appellant's date of birth is 16.12.1961 and is going to attain the age of superannuation on 15.12.2021. The respondent-department itself has also issued his retirement order and sanction to the grant of 365 days leave encashment vide order dated 06.08.2021. Moreover, the impugned order dated 10.06.2021 has been issued in utter violation of para(i),(iv) and (xi) of the Posting/Transfer Policy of Provincial government. Needless to mention that a policy has the same sanctity of law and rules on a subject and the respondent-department is obligated to honour and observe it in larger public interest.

07. As a sequel to the above, we are left with no option but to set aside impugned orders dated 10.06.2021 and 15.06.2021 allowing the appellant to continue at DHQ Hospital Charsadda till his date of superannuation falling on 15.12.2021. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
28.10.2021


(SALAH-UD-DIN)
MEMBER (JUDICIAL)


(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2021

Mr. Shah Jehan

VS

Govt of KPK etc

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APPELLANT
Mr. Shah Jehan

THROUGH:


(M. ASIF YOUSAFZAI)
Advocate Supreme Court


(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT


SHAHKAR KHAN YOUSAFZAI
ADVOCATE PESHAWAR

OFFICE ADDRESS:

Cell No: 0302-5548451

4TH Floor, Room No Fr #8
Bilour Plaza, sadar Bazar
Peshawar.

Date: 16/06 /2021

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE
TRIBUNAL PESHAWAR**

Appeal No. 6106/2020

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 6501

Dated 16/6/2021

Mr. Shah Jehan,
Office Assistant DHQ Hospital Charsadda

.....Appellant

VERSUS

1. The Secretary Health Department, Khyber Pakhtunkhwa, Peshawar.
2. The Director General Health Services, Khyber Pakhtunkhwa, Peshawar.
- ③ Mr. Sardar Shah Office Assistant, Sarhad Hospital for Psychiatric Disease Peshawar.

.....Respondents

**APPEAL UNDER SECTION 4 OF THE KPK
SERVICE TRIBUNAL ACT, 1974 AGAINST
THE TRANSFER ORDER DATED
10.06.2021 WHEREBY THE APPELLANT
WAS PREMATURELY TRANSFERRED IN
LAST LEG OF SERVICE AND AGAINST
REJECTION ORDER DATED 15.06.2021
WHEREBY THE DEPARTMENTAL APPEAL
OF THE APPELLANT WAS REJECT
WITHOUT SHOWING ANY REASON.**

PRAYER

On acceptance of this appeal, the impugned order dated 10.06.2021 and 15.06.2021 may be set aside being in last leg of service and in violation of posting/transfer policy, the respondent Department may further please be directed not to transfer the appellant going to retire and in violation of posting/transfer policy.

Any other remedy which this august tribunal deems fit and appropriate that may also be awarded in favour of appellant.

Filed to-day
Registrar
Khyber Pakhtunkhwa
Service Tribunal

THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT

R/ SHEWETH:

ON FACTS:

- 1- That Appellant is the employee of respondent Department and is serving the respondent Department till date quite efficiently and up to the entire satisfaction of his superiors.
- 2- That vide Notification dated 08.12.2020 appellant was transferred from DHO Hospital Charsadda to DHO Hospital Ghalanai, against the transfer order appellant filed departmental appeal on medial ground. The same was accepted vide order dated 06.01.2021 and the Appellant was retained at DHO Hospital Charsadda as office assistant, the Appellant submitted his charge report and started performing his duty quite efficiently and up to the entire satisfaction of his superiors. **Copy of the Notification. Departmental appeal and order is attached as annexure A, B & C.**
- 3- That Appellant while serving the respondent department as Office Assistant at DHO Hospital Charsadda the respondent No.2 has astonishingly vide impugned order dated 10.06.2021 the appellant was again transferred pre-maturely from DHO Hospital Charsadda to Sarhad Hospital for psychiatric Diseases Peshawar just after 6 months. That feeling aggrieved the appellant filed Departmental appeal against the impugned order dated 10.06.2021 but the appeal of the appellant was rejected by incompetent authority vide order dated 15.06.2021. **Copies of the impugned order, Departmental appeal and rejection order are attached as annexure D, E and F.**
- 4- That the appellant having no other adequate remedy hence filed the instant service appeal on the following grounds amongst the others.

GROUNDS:

- A- That, impugned order dated 10.06.2021 and 16.05.2021 is against the Law, transfer policy, facts and norms of natural justice hence not tenable in the eye of law and liable to be set-aside.
- B- That the appellant has not been 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 of Islamic Republic of Pakistan 1973.

- C- That according to transfer policy in last leg of service civil servant should be posted at Home District Domicile place. In case of appellant which is Charsadda. So the same clause of the posting transfer policy was also violated in case of appellant.
- D- That the tenure of the appellant has not been completed, so the order dated 10.06.2021 is not according to law and rules without showing any cogent reasons and without giving personal hearing is against the law rules, posting transfer policy. **Copy of posting transfer policy is attached as Annexure-G.**
- E- That the appellant was in last leg of service just 5 months remaining in retirement of the appellant according to DOB of appellant 16.12.1961 so the appellant cannot be transferred according to transfer policy and superior court judgments. Further appellant facing rear medical condition that the appellant operate the eye, so according to transfer policy, supreme court judgment and this Hon'ble Tribunal Judgment, civil servant shall not be transferred in on humanitarian ground, so the impugned order is liable to be set-aside. **Copy of CNIC is attached as Annexure-H.**
- F- That the transfer of the appellant is also violation of circular based on the Anita Turab case dated 27.2.2013 in which it was clearly mentioned that when the ordinary tenure for a posting has been specified in the law or rules made thereunder, such tenure must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable, but in the case of the appellant the tenure was not respected and was posted/ transferred without completing his normal tenure at Abbottabad and without giving compelling reason for such transfer of the appellant by the authority.
- G- That the treatment meted out to the appellant is a clear violation of the Fundamental Rights of the appellants.
- H- That In the case of the petitioner, all the prevailing laws have been abused / misused and the department has tried to victimize the petitioner. Such treatment of the department is not covered under Para -1 of the posting transfer policy.
- I- That Para 3 of the posting / transfer policy further provides that the normal tenure of posting shall be two years , which has not been observed in the case of the petitioner .

- J- That the appellant was transferred on 06.01.2021 to DHO Hospital Charsadda but the transferred order was withdrawn on 10.06.2021 just after six months against the law, rules and on the basis of political influence, which is evident from the order.
- K- That as the appellant has been transferred on administrative ground and this august Tribunal itself held in its judgment reported as 2012-PLC (CS) Page-187 that transfer cannot be made on complaint/Administrative ground. The case of the appellant is same and is also entitled for the same relief especially when the appellant name was not included in typed list against whom complaint was moved.
- L- That the respondent Department acted in arbitrary and malafide manner by transferring the appellant and as such the same is against the transfer/posting policy of the Provincial Government.
- M- That the impugned order dated 10.06.2021 has not been issued in the public interest, therefore, not tenable and liable to be set aside.
- N- That no reasons have been mentioned in the order dated 15.06.2021 which is the violation of Clause-24-A of the General Clauses Act 1897.
- O- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

It is therefore, most humbly requested that the appeal of the appellant may be accepted as prayed for.

Appellant
Mr. Shah Jehan

Through

(M. Asif Yousafzai)
Advocate, Supreme Court

(Syed Noman Ali Bukhari)
Advocate High Court
& S. Khan
Shahkar Khan Yousafzai
Advocate, Peshawar

(5)

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2021

Mr. Shah Jehan

VS

Govt of KPK etc

**APPLICATION FOR SUSPEND/STAY
THE OPERATION OF ORDER DATED
10.06.2021 TILL THE DISPOSAL OF
MAIN APPEAL BECAUSE THE
APPELLANT DID NOT
RELINQUISHED THE CHARGE.**

RESPECTFULLY SHEWETH:

1. That the appellant has filed an Appeal along-with application in which no date has been fixed so far.
2. That the appellant has good prema facie case and all the ingredients of stay is in favour of appellant.
3. That the grounds of main appeal may also be considered as integral part of this application.
4. That the impugned order has passed on favouritism and nepotism and has been passed in-violation of Posting, Transfer Policy.
5. That the appellant has not completed his tenure and the order dated 10.06.2021 is without any reasons.

6

6. That if the order dated 10.06.2021 is not suspended and charge will take from the appellant. It badly effect the right of appellant.

It is, therefore, most humbly prayed that the order dated 10.06.2021 may be suspended till the disposal of main appeal. Any other remedy, which this august tribunal deems fit that may also be awarded in favour of appellant.



APPELLANT

Mr. Shah Jehan

THROUGH:



(M. ASIF YOUSAFZAI)

Advocate Supreme Court



(SYED NOMAN ALI BUKHARI)

ADVOCATE HIGH COURT

S. Khan

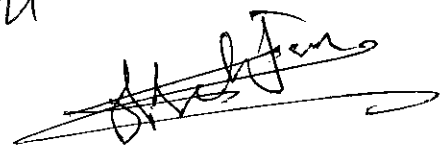
SHAHKAR KHAN YOUSAFZAI

ADVOCATE PESHAWAR

Date: ___ / ___ / 2021

AFFIDAVIT:

It is affirmed and declared that the contents of this Application are true and correct to the best of my knowledge and belief.



DEPONENT

7

A (7)

Amir A

DIRECTORATE GENERAL HEALTH SERVICES
KHAYBER PAKHTUN KHWA PESHAWAR

E-Mail Address: nsf@puls.hs@yahoo.com office Ph# 091-9210269 Exchange# 091-9210187, 9210196 Fax # 091-9210230

08/12/2020

As approved by the competent authority the following posting transfer of Ministerial Staff (in the DGHS Cadre & District Cadre basis) is hereby ordered in the interest of public service with immediate effect:-

S.No	Name of official	Designation	From	To	Remarks
1	Faizullah	Office Assistant	DGHS	DHQ Hospital Charsadda	Vice No. 14
2	S. Amjad Ali Shah	Office Assistant	DGHS	DHQ Hospital Ghallanai	Vice No.13
3	Shabir Ahmad	Office Assistant	DGHS	SGSM Hosp Peshawar	Against the vacant post
4	Ilyas Masih	Office Assistant	DGHS	DHO Peshawar	Against the vacant post
5	Arshad Durrani	Computer Operator	DGHS	DHO Office Peshawar	Against the vacant post
6	Dilawar Khan	Computer Operator	DGHS	Govt. NKBM Hospital Peshawar	Vice No.23
7	Rahmatullah	Senior Clerk	DGHS	Police Hospital Peshawar	Against post of Supdt: in own pay and scale
8	Aashiq Ali	Junior Clerk	DGHS	Sifwat Ghayur Shaheed Hosp	Vice No.17
9	Muhammad Sajid	Junior Clerk	DGHS	DHO Peshawar	Vice No.18
10	Fazle Qadir	Junior Clerk	DGHS	DHO Office Peshawar	Vice No.19
11	Ziaullah Mishwani	Junior Clerk	DGHS	NKBMH Peshawar	Vice No.20
12	Mansoor Ahmad	Junior Clerk	DGHS (Working in Health Secretariat)	Sifwat Ghayur Shaheed Hosp Peshawar (& will continue his duty in Health Secretariat)	Vice S.No.21
13	Mr. Adeel	Office Assistant	DHQ Hospital Ghallanai	DGHS	Vice No.1
14	Mr. Shahjehan	Office Assistant	DHQ Hospital Charsadda	DGHS	Vice No.2
15	Mukhtiar Ali	Senior Clerk	DHQ Hospital Charsadda	DGHS	Against the vacant post
16	Sami ul Haq	Senior Clerk	MASM Hospital Peshawar	DGHS	Against the vacant post
17	S. Irfan Haider	Junior Clerk	Sifwat Ghayur Shaheed Hosp: Pesh	DGHS	Vice No. 8

Attested *cancelled on appeal*

To,

The Director General
Health Services Khyber Pakhtunkhwa Peshawar.

8
B
"B"

Subject: APPEAL FOR CANCELLATION OF TRANSFER ORDER.

Sir,

With reference to the subject cited above, it is stated that the Medical Superintendent DHQ Charsadda, issued my relieving order on account of baseless allegations order vide NO.8462-65/ DHQ Charsadda dated 27/10/2020.

In light of the above mentioned, an order for conduction of inquiry has been issued by your good office vide NO.3006-08/Personnel dated 11/11/2020.

The Inquiry officer (Additional Director) has thoroughly checked all relevant record & investigated the matter, after completion of inquiry process, he submitted the said report to the competent authority, for necessary action but now they said report was not yet received and order of my transfer from DHQ Hospital Charsadda has issued vide Health Directorate Peshawar order NO.3455-94/Personnel dated 08/12/2020.

In this connection I want to bring in your kind notice that I have been performed and completed my tenure at Health Directorate Khyber Pakhtunkhwa Peshawar, Director FATA Peshawar, Sarhad Hospital Peshawar, DHQ Hospital Nowshera, Moulvi Ameer Shah Memorial Hospital Peshawar and DHO Office Charsadda.

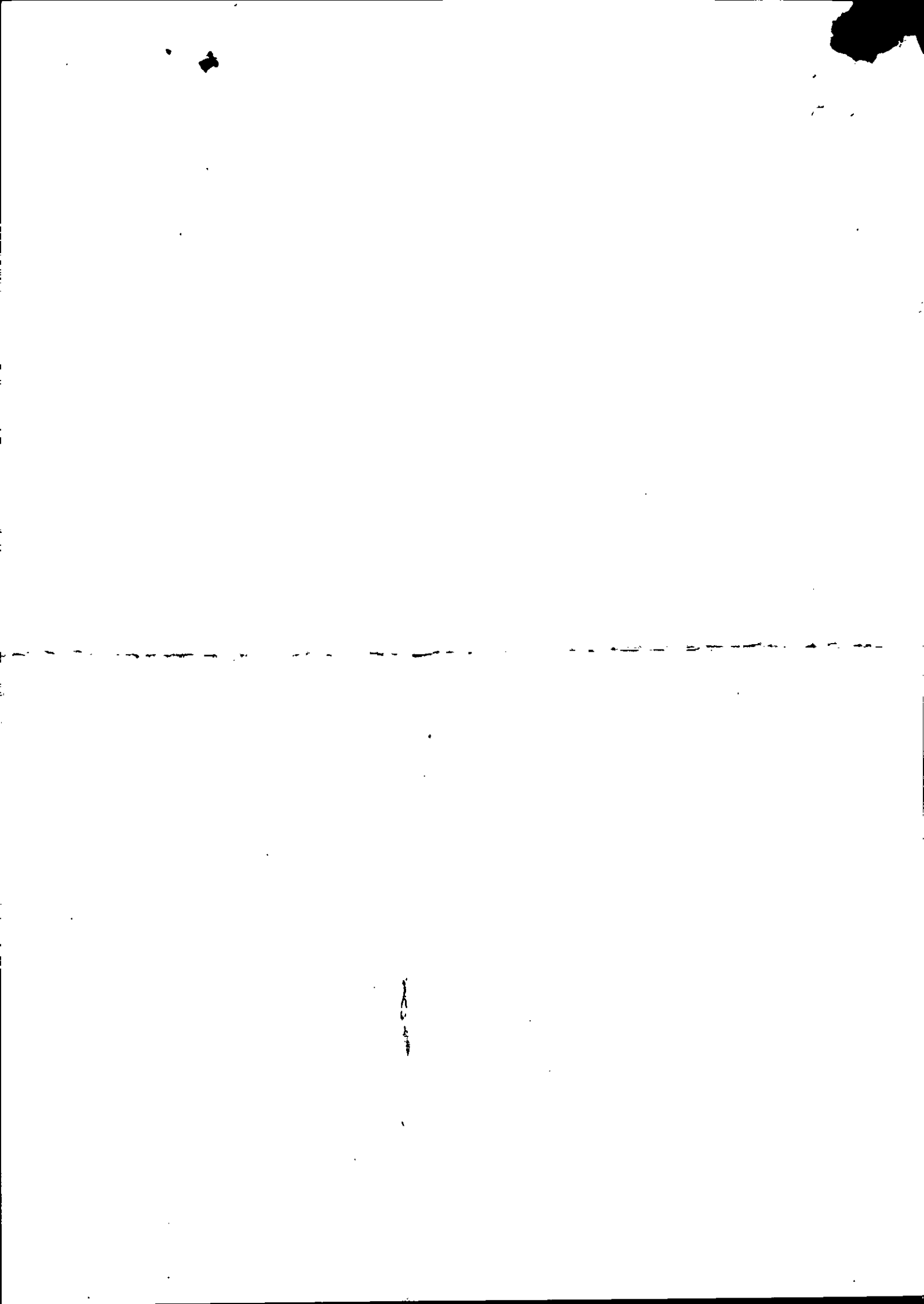
It is further added that I have not completed my tenure at the present station and there are only 08 months are remaining in my retirement, also due to my eye disability I am unable to face the hardship of daily traffic/ transport problems. (Photo copy of Medical & Disability record) is attached.

In view of the above mentioned fact, you are requested to consider my application and retain me to DHQ Charsadda on humanitarian grounds and obliged.

Dated 17/12/2020

Yours Faithfully
Shah Jehan _____
Office Assistant.
DHQ Hospital Charsadda.

~~Accepted~~





9
Anwar "C"

DIRECTORATE GENERAL HEALTH SERVICES KHYBER PAKHTUN KHWA PESHAWAR

C 9

E-Mail Address: dgshs@kpk.gov.pk Office Ph: 091-9210250 Fax: 091-9210187, 9210196, 9210230

OFFICE ORDER

In partial modification of this Directorate office order bearing Endst: No. 3455-94/Personnel dated 08.12.2020 and Endst: No. 3737-60/Personnel dated 16.12.2020, the posting/ transfer orders of the following Office Assistants issued due to human error are hereby reversed, as the cadres of Ministerial Staff become joint at the level of Office Assistants as well as in the light of their appeals for withdrawal of the said transfer orders:-

S.No	Name & Designation	Under transfer to	To be retained	Remarks
1.	Faizullah Office Assistan	Govt. NKBM Hospital Peshawar	DGHS Office	Against his original post
2.	Mr. Adeel Office Assistant	DGHS Office	DHQ Hospital Ghallanai	-do-
3.	Mr. Anjad Ali Shah Office Assistant	DHQ Hospital Ghallani Mohmand	DGHS office	-do-
4.	Mr. Shanjehan Office Assistant	DGHS Office	DHQ Hospital Charsadda	-do-
5.	Muhammad Khaliq Office Assistant	DGHS Office	Govt. NBKM Hospital Peshawar	-do-
6.	Muhammad Haroon Office Assistant	DGHS Office	BES Teaching Hospital Abbottabad	-do-

Sd/-xxxxx

DIRECTOR GENERAL HEALTH
SERVICES, K.P.K PESHAWAR.

Dated: 06/01/2021

No. 128-41 /Personnel

Copy forwarded to the:-

1. AG Khyber Pakhtunkhwa.
2. M.S DHQ Hospital Charsadda.
3. M.S DHQ Hospital Ghallani Mohmand.
4. M.S Govt. Naseerullah Khan Baber Memorial Hospital Peshawar.
5. M.S BBS Teaching Hospital Abbottabad.
6. Deputy Director (Accounts) DGHS Office Peshawar.
7. Assistant Director (Ministerial) DGHS, Office Peshawar.
8. Officials concerned.

For information and necessary action.

*Partially
cancelled on
appeal.*

Attested

*Deputy Director
Please make
the order*

*Minister For Elementary
Secondary Education
Khyber Pakhtunkhwa*

DIRECTOR GENERAL HEALTH
SERVICES, K.P PESHAWAR.

06/01/2021

DIRECTORATE GENERAL HEALTH SERVICES KHYBER PAKHTUN KHWA PESHAWAR

E-Mail Address: nwfpdghs@yahoo.com office Ph# 091-9210269 Exchange# 091-9210187, 9210196 Fax # 091-9210230

10

Amir D

OFFICE ORDER

As approved by the competent authority the following posting/ transfer of Ministerial Staff are hereby ordered with immediate effect:-

S.No	Name of Officials	From	To	Remarks
1.	Mr. Shah Jehan office Assistant ✓	DHQ Hospital Charsadda	Sarhad Hospital for Psychiatric Diseases Peshawar ✓	Vice S.No. 02 on Admn: grounds
2.	Mr. Sardar Shah office Assistant	Sarhad Hospital for Psychiatric Diseases Peshawar	DHQ Hospital Charsadda	Vice S.No. 01
3.	Mr. Sher Akbar Senior Clerk	DHQ Hospital Charsadda	DHO office Mardan	Against the vacant post on Admn: grounds
4.	Mr. Wajid Junior Clerk	DHQ Hospital Charsadda	THQ Hospital Shabqadar	Vice S.No. 05 on Admn: grounds
5.	Mr. Qaiser Khan Junior Clerk	THQ Hospital Shabqadar	DHQ Hospital Charsadda	Vice S.No. 04
6.	Mr. Qamar Ward orderly	DHQ Hospital Charsadda	THQ Hospital Shabqadar	Vice S.No. 07 on Admn: grounds
7.	Mr. Adnan Ward orderly	THQ Hospital Shabqadar	DHQ Hospital Charsadda	Vice S.No. 06
8.	Mr. Touheed Ward orderly	DHQ Hospital Charsadda	THQ Hospital Shabqadar	Vice S.No. 07 on Admn: grounds
9.	Mr. Intikhab Ward orderly	THQ Hospital Tangi	DHQ Hospital Charsadda	Vice S.No. 08

NB: Arrival/ departure report should be submitted to this Office for record. Sd/xxxxxxx

DIRECTOR GENERAL HEALTH SERVICES, K.P.K PESHAWAR.

Dated 10/06/2021

No. 3583-93 Personnel

Copy forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa.
2. P.S to Minister for Health Khyber Pakhtunkhwa.
3. P.S to Secretary to Govt: of Khyber Pakhtunkhwa Health Department Peshawar.
4. DHO Charsadda. He is hereby directed to relieve the above named officials immediately.
5. M.S Sarhad Hospital for Psychatric Diseases Peshawar.
6. M.S DHQ Hospital Charadda. He is hereby directed to relieve the above named official immediately.
7. DAO Charsadda.
8. M.S THQ Hospital Shabqadar/Tangi.
9. PA to DGHS, Khyber Pakhtunkhwa.
10. Assistant Director (Ministerial) DGHS, KP Peshawar.
11. Officials concerned.

For information and necessary action.

*- Eye operation *
- Charsadda Service le
- Joining: 16.12.2021 by J/C*

*- last leg of service
- ins in actual list of min for
- no transfer on basis of...
- Politically victimized*

DIRECTOR GENERAL HEALTH SERVICES, K.P PESHAWAR.

09/06/2021

~~Attested~~

Handwritten initials and marks, possibly "mm" and a signature.

Office Assistant DHQ Charsadda
Shah Jehan
16/6/21
Yours Faithfully
Shah J

I have the honor to bring in your kind notice that I have recently retained to DHQ Charsadda as per Medical grounds and nearly retirement to attain the age of superannuation But it is very strange that after 06 Months, I have been transferred again from DHQ Hospital Charsadda vide Director General Health Services Khyber Pakhtunkhwa Peshawar NO. 3583-93/Personnel dated 10/10/2021. Which has not only affected my status but also damaged my fundamental rights as there are only 05 months remaining in my retirement and it is my rights to acquire retirement in my home Districts per service rules. You are therefore requested to cancelled my transfer order or Retained me to DHQ Charsadda and obliged.

Pakhtunkhwa Peshawar vide NO. 12-41/Personnel dated 06/01/2021.
With reference to Director General Health Services, Khyber

REQUEST FOR RETAINATION OF OFFICE ORDER.

Subject: Sir,

Director General Health Services Khyber Pakhtunkhwa Peshawar.

20126
10.6.21

To,

465

Handwritten notes and signatures at the bottom of the page, including "E", "E", and "11".



-12
Amir F
19-12

DIRECTORATE GENERAL HEALTH SERVICES KHYBER PAKHTUN KHWA PESHAWAR

E-Mail Address: nwfpdghs@vnlhoo.com office Ph# 091-9210269 Exchange# 091-9210187, 9210196 Fax# 091-9210230

No. 3687 /Personnel Dated 15 / 06 /2021

To,

Mr. Shah Jehan
Office Assistant
Udner transferred from DHQ Hospital Charsadda .

Subject: **REQUEST FOR RETAINION OF OFFICE ORDER.**

Memo:

Refer to your application dated 10.06.2021 on the subject noted above and to state that your request has been considered by the competent authority but it is regretted be acceded to.

You are hereby directed to immediately report to MS SHPD Peshawar.

ADDITIONAL DG (ADMN)
DIRECTORATE GENERAL HEALTH
SERVICES, K.P.K PESHAWAR.

No _____ /Personnel

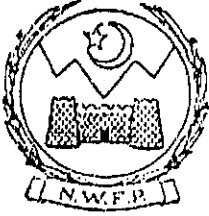
Copy forwarded to the:-

1. Medical Superintendent DHQ Hospital Charsadda.
2. DHO Charsadda.

With reference to this Directorate Office Order bearing Endst: No. 3583-93/Personnel dated 10.06.2021 they are directed to relieve all the under trnafer staff immediately and direct them to report to their new place of posting.

ADDITIONAL DG (ADMN)
DIRECTORATE GENERAL HEALTH
SERVICES, K.P.K PESHAWAR.

Attested
Attested



GOVERNMENT OF NWFP
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT
(Regulation Wing)

POSTING / TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT.

- i) All the posting/transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants
- ii) All Government servants are prohibited to exert political, Administrative or any other pressures upon the posting/transfer authorities for seeking posing/transfers of their choice and against the public interest.
- iii) All contract Government employees appointed against specific posts, can not be posted against any other post.
- iv) The normal tenure of posting shall be three years subject to the condition that for the officers/officials posted in unattractive areas the tenure shall be two years and for the hard areas the tenure shall be one year. The unattractive and hard areas will be notified by the Government.
- v) { }
- vi) While making postings/transfer from settled areas to FATA and vice-versa, specific approval of Governor, NWFP needs to be obtained.

²While making postings/transfers of officers/officials up to BS-17, from settled areas to FATA and vice-versa approval of the Chief Secretary NWFP needs to be obtained. Whereas, in case of posting/transfer of officers in BS-18 and above, from settled areas to FATA and vice versa, specific approval of the Governor NWFP shall be obtained.
- vi (a) All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for at least eighteen months in each grade. This should start from senior most scales/grades downwards in each scale/grade of each cadre.
- vii) Officers may be posted on executive/administrative posts in the Districts of their domicile except District Coordination Officers (D.C.Os) and DPOs/Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where the Police Station (Thaana) of his area/residence is situated.

1 Para-1(v) regarding months of March and July for posting/transfer and authorities for relaxation of ban deleted vide letter No: SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-6-2008. Consequently authorities competent under the NWFP Government Rules of Business, 1985, District Government Rules of Business 2001, Posting/Transfer Policy and other rules for the time being in force, allowed to make posting/transfer subject to observance of the policy and rules.
2 Added vide Urdu circular letter No. SOR-VI(E&AD)1-4/2003, dated 21-09-2003.

ATTESTED

nwfp.gov.pk

mushkalawati

Attested

- viii) No posting/transfers of the officer's/officials on detailment basis shall be made.
- ix) 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.
- x) All the posting/transferring authorities may facilitate the posting/transfer of the unmarried female government Servants at the station of the residence of their parents.

(xi) Officers/officials except DCOs and DPOs/SPs who are due to retire within one year may be posted on their option on posts in the Districts of their domicile and be allowed to serve there till the retirement
¹DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales;

xii) In terms of Rule-17(1) and (2) read with Schedule-III of the NWFP Government Rules of Business 1985, transfer of officers shown in column 1 of the following table shall be made by the authorities shown against each officer in column 2 thereof:

Outside the Secretariat		
1.	Officers of the all Pakistan Unified Group i.e. DMG, PSP including Provincial Police Officers in BPS-18 and above.	Chief Secretary in consultation with Establishment Department and Department concerned with the approval of the Chief Minister.
2.	Other officers in BPS-17 and above to be posted against scheduled posts, or posts normally held by the APUG, PCS(EG) and PCS(SG).	-do-
3.	Heads of Attached Departments and other Officers in B-19 & above in all the Departments.	-do-
In the Secretariat		
1.	Secretaries	Chief Secretary with the approval of the Chief Minister.
2.	Other Officers of and above the rank of Section Officers: a) Within the Same Department b) Within the Secretariat from one Department to another.	Secretary of the Department concerned. Chief secretary/Secretary Establishment.
3.	Officials up to the rank of Superintendent:	

¹ Added vide Urdu circular letter No: SOR-VI (E&AD)/1-4/2005, dated 9-9-2005.

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a) Within the same Department	Secretary of the Department concerned.
b) To and from an Attached Department	Secretary of the Dept in consultation with Head of Attached Department concerned.
c) Within the Secretariat from one Department to another	Secretary (Establishment)

xiii) While considering posting/transfer proposals all the concerned authorities shall keep in mind the following:

- a) To ensure the posting of proper persons on proper posts, the Performance Evaluation Report/annual confidential reports, past and present record of service, performance on post held presently and in the past and general reputation with focus on the integrity of the concerned officers/officials be considered.
- b) Tenure on present post shall also be taken into consideration and the posting/transfers shall be in the best public interest.

xiv) 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 posing/transfer or posting transfer in violation of the provisions of this policy.
- ii) Serious and grave personal (humanitarian) grounds.

2. To streamline the postings/transfers in the District Government and to remove any irritant/confusions in this regard the provision of Rule 25 of the North West Frontier Province District Government Rules of Business 2001 read with schedule - IV thereof is referred. As per schedule-IV the posting/transferring authorities for the officers/officials shown against each are as under:-

S. No.	Officers	Authority
1.	Posting of District Coordination Officer and Executive District Officer in a District.	Provincial Government.
2.	Posting of District Police Officer.	Provincial Government
3.	Other Officers in BPS-17 and above posted in the District.	Provincial Government
4.	Official in BPS-16 and below	Executive District Officer in consultation with District Coordination Officer.

ATTESTED

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3. As per Rule 25(2) of the Rules mentioned above the District Coordination Department shall consult the Government if it is proposed to:

- a) Transfer the holder of a tenure post before the completion of his tenure or extend the period of his tenure.
- b) Require an officer to hold charge of more than one post for a period exceeding two months.

4. I am further directed to request that the above noted policy may be strictly observed /implemented.

.....
All concerned are requested to ensure that tenures of the concerned officers/officials are invariably mentioned in summaries submitted to the Competent Authorities for Posting/Transfer.
{Authority: Letter No: SOR-VI/E&AD/1-4/2003 dated 24-6-2003}.

.....
It has been decided by the Provincial Government that posting/transfer orders of all the officers up to BS-19 except Heads of Attached Departments irrespective of grades will be notified by the concerned Administrative Departments with prior approval of the Competent Authority obtained on the Summary. The Notifications/orders should be issued as per specimen given below for guidance.

All posting/transfer orders of BS-20 and above and Heads of Attached Departments (HAD) shall be issued by the Establishment Department and the Administrative Departments shall send approved Summaries to E&A Department for issuance of Notifications.

SPECIMEN NOTIFICATION.

GOVERNMENT OF NWFP
NAME OF ADMINISTRATIVE
DEPARTMENT

Dated Peshawar, _____

NOTIFICATION

NO. The Competent Authority is pleased to order the transfer of Mr. _____ Department and to post him as _____ in the interest of public service, with immediate effect.

CHIEF SECRETARY
GOVERNMENT OF NWFP

Endst. No. and date even.
Copy forwarded

- 1.
- 2.
- 3.
- 4.

ATTESTED:

Attested

5.

(NAME)
SECTION OFFICER
Administrative Department



19

{Authority: Letter No. SO (E-I) E&AD/9-12/2006 dated 22-12-2006}.

The competent authority has been pleased to direct that Para 1(v) of the Posting/Transfer Policy contained in this Department letter No:SOR-I (E&AD) 1-1/85 Vol-II, dated 15-2-2003 shall stand deleted, with immediate effect, consequently allowing the authorities, competent under the NWFP Government Rules of Business, 1985 and the District Government Rules of Business, 2001 or any other rules for the time being in force, to make posting/transfers of Government servants, any time during the year, in genuinely deserving and necessary cases, in public interest, subject to strict observance of all other provisions of posting/transfer policy contained and notified vide circular letter under reference. Hence there will be no ban on posting/transfer of Government Servants in any part of the year while carrying out postings/transfers of Government Servants.

The authorities concerned will ensure that no injustice whatsoever is caused to any civil servant, public work is not suffered and service delivery is improved.

I am therefore directed to request that the provisions of posting/transfer policy, as amended to the extent above, may kindly be followed in letter and spirit in future so as to keep good governance standard in this regard.

{Authority: Letter No: SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-6-2008}.

.....
According to the policy of the provincial Government, maximum tenure on a post is three years. Contrary to the Policy, Store Keepers, Cashiers, Accountants and other ministerial staff remains posted in their particular field for long time, which may result in misuse of this position, due to which not only public exchequer may sustain loss but general public also suffers. The Provincial Government has taken serious notice of this situation & decided that all Administrative Secretaries and DCOs may submit a certificate within one month to the effect that above mentioned officials, having completed three years on their posts, have been adjusted on posts other than those they held previously.

{Authority: Urdu circular No: SOR-VI (E&AD)/05 dated 28th Oct, 2005.}

.....
The Chief Minister NWFP has directed that:-

- i) Submission of summary would not be required in case of mutual transfer.
- ii) Posting/transfer shall be made according to the policy;
- iii) Government Servants shall avoid direct submission of applications to the Chief Minister;
- iv) In genuinely deserving case, they should approach the Administrative Secretaries who could process the case according to policy;

ATTESTED

Attested

- v) In case of direct submission of application to the Chief Minister Secretariat for Posting/ Transfer, the concerned govt servants shall be proceeded against under the prevalent rules and regulations.

{Authority: Urdu circular No; SOR-VI/E&AD/1-4/2003, dated 86-2004.
Urdu Letter No: SOR-VI/E&AD/Misc: /2005, dated 3-1-2005.}

It has been decided with the approval of the competent authority that:-

- i) Mutual transfer would be allowed if both the concerned employees agree; except the Government Servants holding Administrative posts;
- ii) NWFP Government Rules of Business 1985 shall be observed while issuing posting/transfer orders.

{Authority: - Urdu circular letter No: SOR (E&AD)/1-4/2005, dated 9-9-2005}

.....

The competent authority has decided that in order to maintain discipline, enhance performance of the departments and ensure optimum service delivery to the masses, the approved /prevalent policy of the posting/transfer shall be strictly followed. Government Servants violating the policy and the NWFP Govt Servants (Conduct) Rules 1987 shall be proceeded against under the NWFP Removal from Service (Special Powers) Ordinance 2000. As required under the NWFP Govt Rules of Business 1985, the Administrative Secretaries shall ensure compliance with the policy and defaulting offices/officials be taken to task & entries to this effect shall be made in their PERs/ACRs. In case subordinate officers are working on sites or proceeding for the purpose of inspection, they shall submit inspection Report to their Administrative Secretaries. Administrative Secretaries shall ensure submission of such reports.

{Authority: - Urdu circular No: SOR-VI (E&AD)/1-4/06, dated, 29-6-2007}

.....

PLACEMENT POLICY.

In order to utilize the expertise of the officers who have received foreign training in various fields, the provincial Government has decided to adopt the Placement Policy, approved by the Prime Minister of Pakistan, and make it a part of its Posting/Transfer Policy. Placement Policy as follows:-

- i) All placements would be made on the basis of merit and keeping in view the needs of the organization.
- ii) The first priority in placement must go the parent organization of the participant from where the individual had applied. This will be in consonance with the concept of establishing the "Need" for the department and fulfilling the need through "capacity building for the organization.
- iii) In order to follow the "bottom up approach" for Devolution, the priority within departments must go to the Districts, the Provinces and than the Federal Government.
- iv) The second priority in placement should go to up-grading the existing training Institution within the country. The knowledge gained by the

¹ Placement Policy has been made part of the posting/transfer policy vide Urdu circular No SOR-VI(E&AD)/1-4/06, dt 9-2-2007

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officers, will be of immense value to bring about a qualitative change in the training institutions. The following proposals are made in this regard:

- a) Permanent posting of an officer to the training institutions for 2-3 years;
- b) Temporary attachment with the training intuitions for 3 to 6 months for some research project on helping in developing case studies;
- c) Earmarked as a visiting faculty member for specific subject.

- v) Individuals posted to their parent organizations will also organize training for their subordinates within the department, in order to transfer the knowledge and bring about a qualitative change internally;
- vi) The Normal tenure of posting as already provided in the policy would be ensured;
- vii) No participant should be allowed to be posted on deputation to multinational donor agencies for at least 5 years;
- viii) No participant will decline/represent against his/her posting.

ATTESTED

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Attested



Section Officer
 Establishment Department

1. The Additional Chief Secretary (P&D) Khyber Pakhtunkhwa.
2. The Additional Chief Secretary (P&A) Khyber Pakhtunkhwa.
3. All Administrative Secretaries to Govt. of Khyber Pakhtunkhwa.
4. All Commissioners in Khyber Pakhtunkhwa.

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ISLAMIC REPUBLIC OF PAKISTAN 1973)
UNDR ARTICLE 184 (3) OF THE CONSTITUTION OF
FOR PROTECTION OF CIVIL SERVANTS REGISTERED
MOTO CASE NO. 3/2012 (PETITION BY MS. ANITA TURAB
CONSTITUTION PETITION NO.23 OF 2012 OUT OF 200

Subject

Sir

I am directed to refer to the subject noted above and to state that the Supreme Court of Pakistan vide the subject cited judgment has enunciated the following principles of law with regard to protection and conduct of civil servants.

(i) Appointments, Removals and Promotions: Appointments, removals and promotions must be made in accordance with the law and the rules made thereunder, 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.

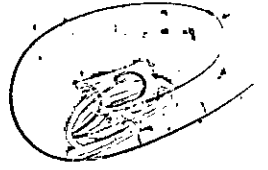
(ii) Tenure, Posting and Transfer: When the ordinary tenure for a posting has been specified in the law or rules made thereunder, such tenure must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable.

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WITNESSED

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 Officer

21



(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) **OSD:** Officers should not be posted as OSD except for compelling reasons, which must be recorded in writing. If at all an officer is to be posted as OSD, such posting should not exceed 03 months. If there is a disciplinary inquiry going on against him/her such inquiry must be completed at the earliest. The officer on special duty may be posted against a post of his/her equivalent pay scale/grade within 03 months of his/her order as OSD.

2. I am, therefore, directed to request you to note the above principles of law for strict compliance.

Yours faithfully,

naizam
(NAJ-MUS-SAHAR)
SECTION OFFICER (REG-VI)

Encl: as above.

A copy is forwarded to:-

1. The Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. The Secretary Provincial Assembly, Khyber Pakhtunkhwa.
4. The Accountant General, Khyber Pakhtunkhwa.
5. The Registrar, Peshawar High Court, Peshwar.
6. The Secretary Khyber Pakhtunkhwa, Public Service Commission.
7. All Addl: Secretaries Establishment & Administration Department.
8. All Deputy Secretaries in Establishment & Administration Department.

naizam
SECTION OFFICER (REG-VI)

Accepted

VAKALAT NAMA

23

NO. _____/20

IN THE COURT OF KP Service Tribunal, Peshawar

Shah Jehan (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Govt of KP (Respondent)
(Defendant)

I/We, Shah Jehan (Appellant)

Do hereby appoint and constitute **M. Asif Yousafzai, Advocate Supreme Court Peshawar**, to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate/Counsel on my/our costs.

I/We authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/20

Shah Jehan
(CLIENT)

ACCEPTED

M. Asif Yousafzai

M. ASIF YOUSAFZAI
Advocate Supreme Court Peshawar.

&

TAIMUR ALI KHAN
Advocate High Court, Peshawar

&

SYED NOMAN ALI BUKHARI
Advocate High Court

& S. Khan

SHAHKAR KHAN YOUSAFZAI
Advocate.

OFFICE:

Room # FR-8, 4th Floor,
Bilour Plaza, Peshawar,
Cantt: Peshawar

DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUN KHWA PESHAWAR

E-Mail Address: nwfdgphs@yahoo.com office Ph# 091-9210269 Exchange# 091-9210187, 9210196 Fax # 091-9210230

18.	Asfandyar	Junior Clerk	DHO Peshawar	DGHS	Vice No. 9
19.	Waqar Ali	Junior Clerk	DHO Office Peshawar	DGHS	Vice No. 10
20.	Aurangzeb Khan	Junior Clerk	NKBMH Peshawar	DGHS	Vice No. 11
21.	Dilawar Taj	Junior Clerk	Sifwat Ghayur Shaheed Hosp: Peshawar	DGHS	Vice No. 12
22.	S. M. Ali Shah	Computer Operator	Cat-D Hosp: Shabqadar	DGHS	Vice No. 5
23.	Saifullah	Computer Operator	NKBMH Peshawar	DGHS	Vice No. 6
24.	S.Mujahid Shah	Junior Clerk	DGHS Office	MASM Hospital Peshawar	Vice S.No.16 In his own pay & Scale

NB: Arrival/departure reports should be submitted to this Directorate for record.

Sd/xxxxxxxxx
DIRECTOR GENERAL HEALTH SERVICES, K.P, PESHAWAR.
Dated 08/12/2020.

No. 3455-94 /Personnel

Copy forwarded to the:-

1. P.S to Minister for Health Khyber Pakhtunkhwa.
2. P.S to Secretary to Govt. of Khyber Pakhtunkhwa Health Department Peshawar.
3. Accountant General Khyber Pakhtunkhwa Peshawar.
4. District Health Officer Peshawar.
5. District Health Officer Charsadda.
6. Medical Superintendents MASM Hospital Peshawar, Govt. NKBMH Peshawar, SHPD Peshawar, SGMH Peshawar, DHQ Hospital Charsadda, DHQ Hospital Ghallanai & Cat-D Hospital Shabqadar.
7. All Directors DGHS Office Peshawar.
8. All Deputy Directors DGHS Peshawar.
9. Assistant Director (Ministerial) DGHS Office Peshawar.
10. P.A to DGHS KP Peshawar.
11. Officials Concerned.

For information and necessary action.

[Signature]
8/12/20
ADDITIONAL DG (ADMN)
DIRECTORATE GENERAL HEALTH SERVICES, K.P PESHAWAR.

DIRECTORATE GENERAL HEALTH SERVICES

KHYBER PAKHTUN KHWA PESHAWAR

E-Mail Address: nwfnuljhs@yahoo.com office Ph# 091-9210269 ☎ Exchange# 091-9210187, 9210196 Fax# 091-9210230

As approved by the competent authority the following posting transfer of Ministerial Staff (in the DGHS Cadre & District Cadre basis) is hereby ordered in the interest of public service with immediate effect:-

S.No	Name of official	Designation	From	To	Remarks
1	Faizullah	Office Assistant	DGHS	DHQ Hospital Charsadda	Vice No. 14
2	S. Amjad Ali Shah	Office Assistant	DGHS	DHQ Hospital Ghallanai	Vice No.13
3	Shabir Ahmad	Office Assistant	DGHS	SGSM Hosp Peshawar	Against the vacant post
4	Ilyas Masih	Office Assistant	DGHS	DHO Peshawar	Against the vacant post
5	Arshad Durrani	Computer Operator	DGHS	DHO Office Peshawar	Against the vacant post
6	Dilawar Khan	Computer Operator	DGHS	Govt. NKBM Hospital Peshawar	Vice No.23
7	Rahmatullah	Senior Clerk	DGHS	Police Hospital Peshawar	Against post of Supdt: in own pay and scale
8	Aashiq Ali	Junior Clerk	DGHS	Sifwat Ghayur Shaheed Hosp	Vice No.17
9	Muhammad Sajid	Junior Clerk	DGHS	DHO Peshawar	Vice No.18
10	Fazle Qadir	Junior Clerk	DGHS	DHO Office Peshawar	Vice No.19
11	Ziaullah Mishwani	Junior Clerk	DGHS	NKBMH Peshawar	Vice No.20
12	Mansoor Ahmad	Junior Clerk	DGHS (Working in Health Secretariat)	Sifwat Ghayur Shaheed Hosp Peshawar (& will continue his duty in Health Secretariat)	Vice S.No.21
13	Mr. Adeel	Office Assistant	DHQ Hospital Ghallanai	DGHS	Vice No.1
14	Mr. Shahjehan	Office Assistant	DHQ Hospital Charsadda	DGHS	Vice No.2
15	Mukhtiar Ali	Senior Clerk	DHQ Hospital Charsadda	DGHS	Against the vacant post
16	Sami ul Haq	Senior Clerk	MASM Hospital Peshawar	DGHS	Against the vacant post
17	S. Irfan Haider	Junior Clerk	Sifwat Ghayur Shaheed Hosp: Pesh	DGHS	Vice No. 8

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

SERVICE APPEAL NO. 6106/2021

Shah Jehan.....Appellant

Versus

Government of Khyber Pakhtunkhwa & othersRespondents

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S. No.	Description	Annexure	Pages No.
1	Comments		1-2
2	Office Order dated 10/06/2021	A	3
3	Charge Report	B	4
4	Office Order dated 24/10/2017	C	5

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA

SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 6106 OF 2021

Shah Jehan.....Appellants

Versus

Govt. of Khyber Pakhtunkhwa and others.....Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS 1 & 2

Respectfully Sheweth:

Respondents submit as under:

Preliminary Objections:-

1. That the appellant has got neither cause of action nor did locus standi to file the instant appeal.
2. That the appellant has filed the instant appeal just to pressurize the respondents.
3. That the instant appeal is against the prevailing Law and Rules.
4. That the appeal is not maintainable in its present form and also in the present circumstances of the issue.
5. That the appellant has filed the instant Appeal with mala-fide intention hence liable to be dismissed.
6. That the appellant has not come to the Tribunal with clean hands.
7. That the appeal is time barred.
8. That the Honorable Tribunal has no Jurisdiction to adjudicate upon the matter.
9. That the instant appeal is bad for mis-joinder of unnecessary and non-joinder of necessary parties.

ON FACTS:

1. Pertains to record.
2. Pertains to record.
3. Correct to the extent that the appellant has been transferred from DHQ Hospital Charsadda to Sarhad Hospital for Psychiatric diseases Peshawar vide this Directorate Office Order No. 3583-93/Personnel dated 10/06/2021 (Annex-A). It is pointed out that the appellant is continuously serving in DHQ Hospital Charsadda since 31/10/2017 and has completed his normal tenure i.e. 03 years vide this Directorate Office Order No. 15046-52/Personnel dated 24/10/2017

(Annex-B & C), thus his plea that he has been prematurely transferred is incorrect. Moreover, as per Govt. posting / transfer policy under Rule (10) "every Civil Servant has to be serving anywhere in the Province".


4. Needs no comments being formal.

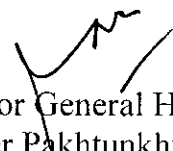
ON GROUNDS:

- A. Incorrect. His transfer order has been issued in the light of Govt. Rules/ Instructions after completing tenure of 03 years in the present station.
- B. Incorrect. No violation of constitution of Islamic Republic of Pakistan, 1973 has been occurred as explained in preceding paras.
- C. Incorrect. The appellant has been transferred in the larger interest of public to Sarhad Hospital for Psychiatric Diseases Peshawar.
- D. Incorrect. The appellant is serving in DHQ Hospital Charsadda since 30/10/2017 and has completed more than 03 years tenure.
- E. As explained in Paras ibid.
- F. Incorrect. Detailed reply has already been furnished in above paras.
- G. Incorrect. The fundamental rights of the appellant have not been violated and impugned transfer order is as per rules of the Govt.
- H. Incorrect, as explained in preceding para.
- I. Incorrect. Instead of two years, appellant has spent more than 03 years in District Charsadda.
- J. Pertains to record.
- K. Pertains to record. Detailed reply has already been furnished in paras ibid.
- L. Incorrect. His transfer order has been issued in accordance with Govt. rules.
- M. Incorrect, as explained in preceding paras.
- N. Incorrect. The transfer order has been issued in the interest of public.
- O. The respondents seek prior permission from this Honorable Court to adduce additional grounds at the time of arguments.

PRAYER:

It is therefore humbly prayed that on acceptance of the comments, the subject appeal may very graciously be dismissed with costs.


Secretary to Govt. of Khyber
Pakhtunkhwa Health Department
Respondent No. 01


Director General Health Services,
Khyber Pakhtunkhwa.
Respondent No. 02

ADC (Mn)

Annex-A 467

DIRECTORATE GENERAL HEALTH SERVICES

KHYBER PAKHTUN KHWA PESHAWAR

E-mail Address: dgshs@peshawar.gov.pk office Ph# 091-9210230 Exchange# 091-9210157, 9210196 Fax # 091-9210230

OFFICE ORDER

As approved by the competent authority the following posting/ transfer of Ministerial Staff are hereby ordered with immediate effect:-

S.No.	Name of Officials	From	To	Remarks
1.	Mr. Shah Jehan office Assistant	DHQ Hospital Charsadda	Sarhad Hospital for Psychiatric Diseases Peshawar	Vice S.No. 02 on Admn. grounds
2.	Mr. Sardar Shah office Assistant	Sarhad Hospital for Psychiatric Diseases Peshawar	DHQ Hospital Charsadda	Vice S.No. 01
3.	Mr. Sher Akbar Senior Clerk	DHQ Hospital Charsadda	DHO office Mardan	Against the vacant post on Admn: grounds
4.	Mr. Wajid Junior Clerk	DHQ Hospital Charsadda	THQ Hospital Shabqadar	Vice S.No. 05 on Admn: grounds
5.	Mr. Qaiser Khan Junior Clerk	THQ Hospital Shabqadar	DHQ Hospital Charsadda	Vice S.No. 04
6.	Mr. Qamar Ward orderly	DHQ Hospital Charsadda	THQ Hospital Shabqadar	Vice S.No. 07 on Admn: grounds
7.	Mr. Adnan Ward orderly	THQ Hospital Shabqadar	DHQ Hospital Charsadda	Vice S.No. 06
8.	Mr. Touheed Ward orderly	DHQ Hospital Charsadda	THQ Hospital Shabqadar	Vice S.No. 07 on Admn: grounds
9.	Mr. Intikhab Ward orderly	THQ Hospital Tangi	DHQ Hospital Charsadda	Vice S.No. 08

NB: Arrival/ departure report should be submitted to this Office for record. Sd/xxxxxxx

DIRECTOR GENERAL HEALTH
SERVICES, K.P.K PESHAWAR.
Dated 10/06/2021

No. 3583-93/Personnel

Copy forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa.
2. P.S to Minister for Health Khyber Pakhtunkhwa.
3. P.O to Secretary to Govt. of Khyber Pakhtunkhwa Health Department Peshawar.
4. DHO Charsadda. He is hereby directed to relieve the above named officials immediately.
5. M.S Sarhad Hospital for Psychiatric Diseases Peshawar.
6. M.S DHQ Hospital Charadda. He is hereby directed to relieve the above named official immediately.
7. DAO Charsadda.
8. M.S THQ Hospital Shabqadar/Tangi.
9. PA to DGHS, Khyber Pakhtunkhwa.
10. Assistant Director (Ministerial) DGHS, KP Peshawar.
11. Officials concerned.

For information and necessary action.

DIRECTOR GENERAL HEALTH
SERVICES, K.P PESHAWAR.

Annex-B

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OFFICE OF THE MEDICAL SUPERINTENDENT

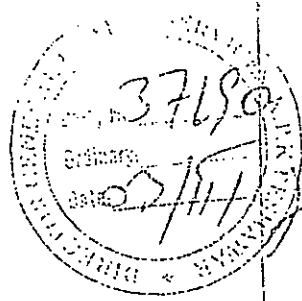
MOULVI AMEER SHAH MEMORIAL HOSPITAL, PESHAWAR

NO. 1994 /MS/MASM HOSPITAL, PESHAWAR Dated 31/10/2017



To

The Director General Health Services,
Khyber Pakhtunkhwa,
Peshawar



Subject: - CHARGE REPORT

Sir,

Reference your good office letter No. 15046-52/Personnel Dated 24/10/2017, I have the honor to enclose herewith charge relinquished report (in duplicate) in respect of Mr. Shah Jehan, Office Assistant (BPS-16) transferred/posted from this hospital to District Health Office, Charsadda, forwarded for information and further necessary action, please.

Medical Superintendent
Moulvi Ameer Shah Memorial
Hospital Peshawar

Dated 31/10/2017

No. _____/MS/MASM Hospital, Peshawar

(copy forwarded for information to:-

Accountant General, Khyber Pakhtunkhwa, Peshawar

Officer concerned, MASM Hospital, Peshawar

Account Section, MASM Hospital, Peshawar

Medical Superintendent
Moulvi Ameer Shah Memorial
Hospital Peshawar

Annex C

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DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUN KHWA PESHAWAR

Mail Address: dgsh@peshawar.gov.pk Office Ph.#: 9210269 Exchange# 091-9210187, 9210156 Fax # 091-9210210

OFFICE ORDER

The following posting/ transfer of Office Assistants are hereby ordered in the interest of public service with immediate effect:

Name of Officials	From	To	Remarks
Mr. Shah Jehan office Assistant	Mulvi Ameer Shah Memorial Hospital Peshawar	DHO Charsadda	Against the vacant post
Mr. Ibrar Ahmad office Assistant	Sarhad Hospital for Psychiatric Diseases Peshawar	Mulvi Ameer Shah Memorial Hospital Peshawar	Vice S.No. 01

Arrival/departure should be submitted to this Section for record.

Sd/xxxxxxx

DIRECTOR GENERAL HEALTH SERVICES, K.P.K PESHAWAR.
Dated 24 /10/2017

5046-52 /Personnel

- Copy forwarded to the:-

- Accountant General Khyber Pakhtunkhwa.
- M.S Mulvi Ameer Shah Memorial Hospital Peshawar.
- M.S Sarhad Hospital for Psychiatric Diseases Peshawar.
- DHO Charsadda.
- PA to DGHS, Khyber Pakhtunkhwa Peshawar.
- Officials concerned.

For information and necessary action.

ADDITIONAL DG (HRM)
DIRECTORATE GENERAL HEALTH SERVICES, K.P.K PESHAWAR.

24/10/17



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 2336 /ST

Dated: 26/11 /2021

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262

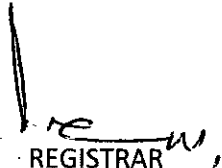
To

The Director General Health Services,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: JUDGMENT IN APPEAL NO. 6106/2020, MR. SHAH JEHAN.

I am directed to forward herewith a certified copy of Judgement dated 28.10.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR,
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 6106/2020

Date of institution ... 16.06.2021
Date of judgement ... 28.10.2021

Mr. Shah Jehan, Office Assistant DHQ Hospital Charsadda.
... (Appellant)

VERSUS

The Secretary Health Department, Khyber Pakhtunkhwa Peshawar and
two others. ... (Respondents)

Present:

SYED NOMAN ALI BUKHARI,
Advocate ... For appellant.

MR. MUHAMMAD ADEEL BUTT,
Additional Advocate General ... For respondents.

MIAN MUHAMMAD ... MEMBER (EXECUTIVE)
MR. SALAH-UD-DIN ... MEMBER(JUDICIAL)

JUDGEMENT

MIAN MUHAMMAD, MEMBER (E):- The Service appeal in hand has been filed against the impugned order dated 10.06.2021 whereby the appellant was transferred prematurely on the last lag of service and rejection of his departmental appeal on 15.06.2021. Feeling aggrieved with, both the orders have been assailed and are under scrutiny/adjudication before this Bench.

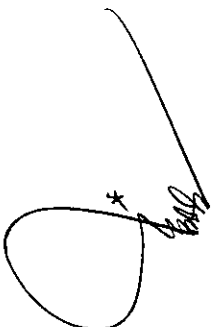
02. Brief fact of the case leading to institution of the service appeal are that the appellant was transferred from DHQ Hospital Charsadda to DGHS office vide office order dated

08.12.2020. The said order was partially modified and the appellant was transferred back from DGHS office to DHQ Hospital Charsadda vide office order dated 06.01.2021. He was again transferred from DHQ Hospital Charsadda and this time posted at Sarhad hospital for Psychiatric Diseases Peshawar vide impugned order dated 10.06.2021. His departmental appeal dated 10.06.2021 was regretted on 15.06.2021 whereafter he filed the instant service appeal under Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 on 16.06.2021 challenging both the impugned orders.

03. Notice was served on private respondent No.3 through registered mail but he did not turn up and apparently opted not to contest. We have heard arguments of the learned counsel for the parties and gone through the available record thoroughly.

04. learned counsel for the appellant contended that the appellant has been transferred prematurely from DHQ Hospital Charsadda to Sarhad Hospital for psychiatric Diseases Peshawar i.e just after six months vide impugned order dated 10.06.2021. The appellant has not completed normal tenure of two years and has been made a rolling stone. The non-completion of tenure and frequent transfers of appellant is a blatant violation of para (iv) of Posting/Transfer Policy of the Provincial Government 2003. The order on his departmental appeal is also violative of clause 24-A of the General Clauses Act, 1897 as no grounds or reasons for rejection are mentioned

in the order dated 15.06.2021. Moreover, the appellant is at the verge of retirement and is entitled to be allowed to serve in the District of domicile/home station. The appellant has therefore not been treated in accordance with law, rules and the respondents have violated Article-4 and 25 of the Constitution as well as directions of the apex court in Civil Petition No. 23 of 2012 (Ms. Anita Turab-vs-State). Both the impugned orders dated 10.06.2021 and 15.06.2021 have not been issued in public interest and are therefore not tenable, may be set aside allowing the appellant to continue at present place of duty/station till his retirement on 15.12.2021.




05. Learned AAG quite contrary to the arguments of learned counsel for the appellant, contended that the appellant had continuously been serving in DHQ Hospital Charsadda since 31.10.2017 and as such he stayed there beyond normal tenure of two years. A Civil Servant is bound to serve anywhere in the province under Section-10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973 and it is not the right of a civil servant to serve against a particular or choice post of his own. The transfer has therefore, been ordered in larger public interest as per rules and posting/transfer policy of the Government.

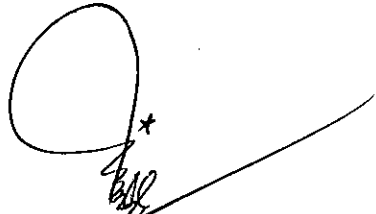
06. Perusal of record reveals that the appellant was first transferred from DHQ Hospital charsadda to DGHS office Peshawar vide order dated 08.12.2020 and then transferred back to DHQ Hospital Charsadda on 06.01.2021 and yet again

transferred from DHQ Hospital Charsadda to Sarhad Hospital for Psychiatric Diseases Peshawar under office order dated 10.06.2021. In this way, the appellant was transferred thrice in a short span of six months. It is also evident from record that the appellant's date of birth is 16.12.1961 and is going to attain the age of superannuation on 15.12.2021. The respondent-department itself has also issued his retirement order and sanction to the grant of 365 days leave encashment vide order dated 06.08.2021. Moreover, the impugned order dated 10.06.2021 has been issued in utter violation of para(i),(iv) and (xi) of the Posting/Transfer Policy of Provincial government. Needless to mention that a policy has the same sanctity of law and rules on a subject and the respondent-department is obligated to honour and observe it in larger public interest.

07. As a sequel to the above, we are left with no option but to set aside impugned orders dated 10.06.2021 and 15.06.2021 allowing the appellant to continue at DHQ Hospital Charsadda till his date of superannuation falling on 15.12.2021. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
28.10.2021


(SALAH-UD-DIN)
MEMBER (JUDICIAL)


(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)