

29.06.2022

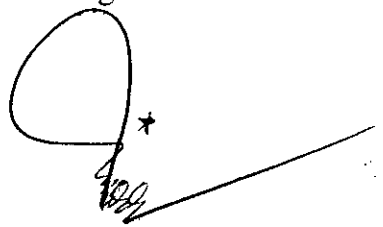
Appellant present in person. Mr. Kabir Ullah Khattak, Additional AG. alongwith Sultan Shah, Superintendent for respondents present and requested for time to file written reply/comments. Request accepted by way of last chance. To come up for written reply/comments on 19.07.2022 before S.B.

  
(Fareeha Paul)  
Member (E)

19.07.2022

Appellant in person present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Mr. Sultan Shah, Superintendent for the respondents present.

Reply/comments on behalf of respondents submitted which is placed on file and copy of the same is handed over to appellant. Adjourned. To come up for rejoinder, if any and arguments on 25.07.2022 before S.B.

  
(Mian Muhammad)  
Member (E)

13.05.2022

Appellant in present in person.

The appellant has challenged the transfer notification No. SO(E-1)/E&AD/1-1/2022(V) dated 04.03.2022, by filing a representation on 07.03.2022. According to him 90 days time has not elapsed yet, which is likely to elapse on 06.06.2022 and has fairly submitted that let the appeal be kept pending till the statutory period of 90 days. To come up on 07.06.2022 before S.B for further proceedings.

(Kaliq Arshad Khan)  
Chairman

07.06.2022

Appellant present in person. Preliminary arguments heard. Record perused.

Points raised need consideration. Instant appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notice be issued to respondents for submission of written reply/comments. To come up for reply/comments on 29.06.2022 before S.B.

*Rs-500/-*  
Appellant Deposited  
**Security & Process Fee**  
*A. M. Hashmi*  
*10/06/22*



(Rozina Rehman)  
Member (J)

Form- A

FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- 414/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	22/03/2022	<p>The appeal of Mr. Muhammad Arshad presented today in person 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-		<p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on <u>13.05.2022</u> <i>Notices be</i> <i>issued to the appellant and</i> <i>his counsel for the date</i> <i>fixed.</i></p> <p style="text-align: right;"> CHAIRMAN</p>

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR  
CHECK LIST

Case Title: Mohammad Arshad - Keras - Govt. ZKP through CS & others.

S#	CONTENTS	YES	NO
1	This Appeal has been presented by:		
2	Whether Counsel/Appellant/Respondent/Deponent have signed the requisite documents?	✓	
3	Whether appeal is within time?	✓	
4	Whether the enactment under which the appeal is filed mentioned?	✓	
5	Whether the enactment under which the appeal is filed is correct?	✓	
6	Whether affidavit is appended?	✓	
7	Whether affidavit is duly attested by competent Oath Commissioner?	✓	
8	Whether appeal/annexures are properly paged?	✓	
9	Whether certificate regarding filing any earlier appeal on the subject, furnished?	✓	
10	Whether annexures are legible?	✓	
11	Whether annexures are attested?	✓	
12	Whether copies of annexures are readable/clear?	✓	
13	Whether copy of appeal is delivered to AG/DAG?	✓	
14	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?		
15	Whether numbers of referred cases given are correct?	✓	
16	Whether appeal contains cutting/overwriting?		✓
17	Whether list of books has been provided at the end of the appeal?	✓	
18	Whether case relate to this court?	✓	
19	Whether requisite number of spare copies attached?	✓	
20	Whether complete spare copy is filed in separate file cover?	✓	
21	Whether addresses of parties given are complete?	✓	
22	Whether index filed?	✓	
23	Whether index is correct?	✓	
24	Whether Security and Process Fee deposited? On _____		
25	Whether in view of Khyber Pakhtunkhwa Service Tribunal Rules 1974 Rule 11, notice along with copy of appeal and annexures has been sent to respondents? On _____	✓	
26	Whether copies of comments/reply/rejoinder submitted? On _____		
27	Whether copies of comments/reply/rejoinder provided to opposite party? On _____		

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name:

MOHAMMAD ARSHAD

Signature:

*Mohammad Arshad*

Dated:

22.03.2022

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

Service Appeal No. 414 of 2022.

Mohammad Arshad ----- Appellant.

VERSUS

The Provincial Government through Chief Secretary and others ----- Respondents.

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 (KHYBER PAKHTUNKHWA ACT NO. I OF 1974) AGAINST THE IMPUGNED POSTING/TRANSFER NOTIFICATION NO. SO(E-I)/E&AD/1-1/2022(V) DATED 04.03.2022.

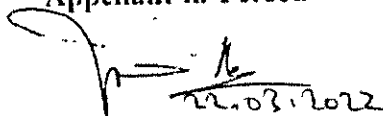
**Prayer:** The posting/transfer order of the appellant being in violation of the law may please be set aside.

INDEX

S. No.	Description of the Document	Annex	Page No.
1	Application for suspension of the impugned order.		1
2	Text of the Service Appeal.		2-5
3	Posting/Transfer Order dated 09.07.2020.	Annex-I	6
4	Posting/Transfer Order dated 19.07.2021.	Annex-II	7
5	Posting/Transfer Order dated 04.03.2022.	Annex-III	8
6	Posting/Transfer Policy of the Provincial Government.	Annex-IV	9-14
7	Departmental Appeal dated 07.03.2022.	Annex-V	15-19

Dated 22.03.2022.

Appellant-in-Person

  
22.03.2022

MOHAMMAD ARSHAD, PCS (SG-BPS-20),  
Home Address: House No. 11, Provincial Civil Officers  
Cofony, Dabgari Gardens (New), Opposite Habib Medical  
Complex, Dabgari Gardens, Peshawar Cantt.  
CNIC No. 15402-9170027-1  
Email Address: arshadedo@gmail.com  
Mobile No. 0348-9745323

(9)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

CM NO. ----- of 2022 IN Service Appeal No. ----- of 2022.

Mohammad Arshad ----- **Appellant.**

**V E R S U S**

The Provincial Government through Chief Secretary and others ----- **Respondents.**

APPLICATION FOR SUSPENSION OF THE IMPUGNED POSTING/TRANSFER  
NOTIFICATION NO. SO(E-1)/E&AD/1-1/2022(V) DATED 04.03.2022.

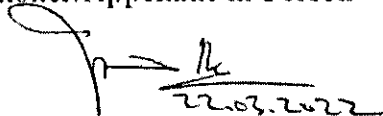
Respectfully submitted:-

1. That, the above titled appeal is pending for consideration before this honourable tribunal.
2. That, the instant application for suspension of the impugned order may please be heard urgently.
3. That, prima-facie the impugned order is illegal; it is two hundred percent sure that it will not stand the test of law and will be ultimately set aside.
4. That, the balance of convenience lies in favour of the appellant.
5. That, the appellant will suffer irreparable loss if the impugned order is not suspended till disposal of the instant appeal.
6. That, the grounds of the appeal may be considered as grounds of the instant application.

It is, therefore, most humbly prayed that the impugned posting/transfer notification may please be suspended till decision on the main service appeal.

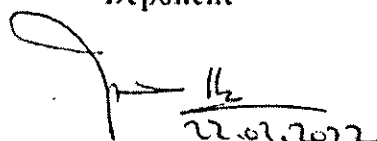
Dated 22.03.2022.

Petitioner/Appellant-in-Person

  
MOHAMMAD ARSHAD

AFFIDAVIT: It is verified on oath that the contents of the above application are true to the best of my knowledge and belief and nothing has been concealed from this honourable tribunal.

Deponent

  
MOHAMMAD ARSHAD

2

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

Service Appeal No. 414 of 2022.

**Mohammad Arshad**, PCS (SG-BPS-20), Home Address: House No. 11, Provincial Civil Officers Colony, Dabgari Gardens (New), Opposite Habib Medical Complex, Peshawar Cantt. CNIC No. 15402-9170027-1. Email Address: arshadedo@gmail.com, Mobile No. 0348-9745323 ----- **Appellant**.

VERSUS

1. The Provincial Government through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. The Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
3. The Secretary Establishment Department, Khyber Pakhtunkhwa, Peshawar ---  
----- **Respondents**.

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 (KHYBER PAKHTUNKHWA ACT NO. 1 OF 1974) AGAINST THE IMPUGNED POSTING/TRANSFER NOTIFICATION NO. SO(E-I)/E&AD/1-1/2022(V) DATED 04.03.2022.

**Prayer:** The posting/transfer order of the appellant being in violation of the law may please be set aside.

Respectfully sheweth that:-

**Facts of the Case**

1. The Government of Khyber Pakhtunkhwa, Establishment Department ordered the posting/transfer of the appellant from Director, Khyber Pakhtunkhwa Higher Education Academy of Research and Training (HEART), Peshawar to Establishment Department vide notification No. SO(E-I)/E&AD/9-88/2020 dated 09.07.2020 and remained posted on the post of Officer on Special Duty (OSD) for more than a year (**Annex-I**).
2. The appellant remained posted on the post of Officer on Special Duty (OSD) for more than one year until posted against the post of Member-I, Board of Revenue, Revenue & Estate Department vide Establishment Department notification No. SO(E-I)/E&AD/5-168/2021 dated 19.07.2021 (**Annex-II**).

3. The Government of Khyber Pakhtunkhwa, Establishment Department ordered the posting/transfer of the appellant from the post of Member-I, Board of Revenue, Revenue & Estate Department and directed to report to Establishment Department after seven (07) months and six (06) days stay on the post, meaning thereby without completing normal tenure of two (02) years on the post vide impugned notification No. SO(E-1)/E&AD/1-1/2022(V) dated 04.03.2022 (Annex-III).
4. The copy of the Posting/Transfer Policy of the Provincial Government issued vides Establishment Department letter No. SOR-VI/E&AD/1-4/2003 dated 24.06.2003 and subsequent amendment in it vide letter dated 10.04.2010, reported at Pages-80-83 and 93 respectively of the ESTA CODE (Revised Edition), 2011 are annexed herewith as (Annex-IV).
5. The appellant has submitted departmental appeal dated 07.03.2022 in the impugned transfer / posting notification No. SO(E-1)/E&AD/1-1/2022(V) dated 04.03.2022 but which remained undecided till filing of the instant service appeal in this honourable tribunal (Annex-V).

**Grounds of the Case**

6. The appellant feeling aggrieved from the impugned posting/transfer order, submits the instant service appeal on the following grounds amongst others:-
  - i. That, the appellant has not been treated according to law, which is the inalienable right of every citizen, as enshrined in Article 4 of the Constitution of Islamic Republic of Pakistan, 1973. The adverse action against the appellant is also in violation of fundamental right to fair trial and due process guaranteed under Article 10A of the Constitution.
  - ii. That, Para. 1(iv) of the Posting/Transfer Policy provides that "Existing tenure of posting/transfer of three (03) years for settled areas and two (02) years for unattractive/hard areas shall be reduced to two (02) years for settled areas, one and a half (1.5) years for unattractive and one year for hard areas." The distinction between unattractive and hard areas was subsequently done away with and both were labeled as unattractive areas vide letter dated 10.04.2010 mentioned above at Para. 4.



- iii. That, Para. 1(xiv) of the Posting/Transfer Policy provides that "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 could be exercised only in the following cases. (i) Pre-mature posting/transfer or posting/transfer in violation of the provisions of this policy. (ii) Serious and grave personal (humanitarian) grounds."
- iv. That, it is evident from the record that the appellant was posted on the post of Member-I. Board of Revenue on 19.07.2021 and now posted out of it on 04.03.2022. It means the total tenure spent on the post is 07 months and 06 days while normal tenure on the post is 02 years for the settled areas which is in violation of the law, thus appealable.
- v. That, making the appellant as OSD time and again without any reason is in violation of the judgement/order of the august Supreme Court of Pakistan in Constitutional Petition No. 23/2012, titled Anita Turab-v-Federation of Pakistan and reported as PLD 2013 SC 195. The concerned officers are committing a contempt of court and the appellant is seriously considering filing a contempt of court case/petition against the violators in the august Supreme Court of Pakistan.
- vi. That, making the appellant as OSD time and again is also in violation of the Provincial Government own instructions issued vide Establishment Department letter No. SOR.VI(E&AD)I-4/2005/Vol-II dated 27.02.2013 as a sequel to the above judgement.
- vii. That, junior officers are working against scheduled posts and some officers hold posts on additional charge but the appellant is time and again denied posting on a scheduled post. The appellant, therefore, suffers a big financial loss without any rhyme or reason and without any trial.

**PRAYER**

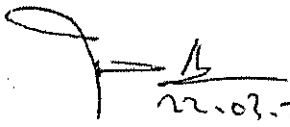
Keeping in view the above-mentioned facts and law on the subject, it is, therefore, most humbly prayed that:-

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- (i) The impugned posting/transfer notification dated 04.03.2022 being in violation of law may please be set aside with cost.
- (ii) Any other relief which this honourable tribunal deems just and proper in circumstances of the case may also be granted.


Dated 22.03.2022.

Appellant-in-Person

  
22.03.2022  
MOHAMMAD ARSHAD


AFFIDAVIT: It is verified on oath that the contents of the above appeal are true to the best of my knowledge and belief and nothing has been concealed from this honourable tribunal.

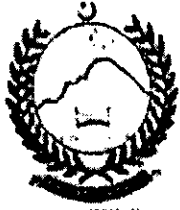
Deponent

  
22.03.2022  
MOHAMMAD ARSHAD

CERTIFICATE: It is certified that no similar appeal has been filed previously on the same subject-matter in this honourable tribunal.

Appellant-in-Person

  
22.03.2022  
MOHAMMAD ARSHAD



Annex-I  
(6)

**GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT**

Dated Peshawar July 09, 2020

**NOTIFICATION**

**NO. SO(E-I)/E&AD/9-88/2020.** The Provincial Government is pleased to order posting/transfers of the following officers, in the public interest, with immediate effect:-

S.#	NAME OF THE OFFICERS	FROM	TO
1.	Muhammad Arshad (PCS SG BS-20)	Director, Khyber Pakhtunkhwa Higher Education Academy of Research and Training (HEART), Peshawar	Report to Establishment Department
2.	Mr. Tasbih Ullah (Professor BS-20)	Principal GDC Shabqadar, Charsadda	Director, Khyber Pakhtunkhwa Higher Education Academy of Research and Training (HEART), Peshawar on deputation basis Vice Sr. No. 1

**CHIEF SECRETARY  
GOVERNMENT OF KHYBER PAKHTUNKHWA**

**ENDST. NO. & DATE EVEN.**

**Copy forwarded to the:-**

1. Principal Secretary to Governor, Khyber Pakhtunkhwa.
2. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. Secretary to Government of Khyber Pakhtunkhwa, Higher Education Department.
4. Accountant General, Khyber Pakhtunkhwa.
5. Director Higher Education Academy of Research & Training, Peshawar.
6. Principal GDC Shabqadar, Charsadda.
7. Director General Information, Khyber Pakhtunkhwa.
8. PSO to Chief Secretary, Khyber Pakhtunkhwa.
9. PS to Secretary Establishment/PS to Secretary Administration Departments.
10. PS to Special Secretary (E)/ AS (Litigation)/D.S (Admn), D.S. (Estt.)/ SO(Secret)/SO(HRD-I)/SO(E-II)/DD(IT) and ACSO Cypher E&AD.
11. Officers concerned.
12. Manager, Govt. Printing Press Peshawar.

  
(ZIA-UL-HAQ)  
SECTION OFFICER (ESTT. I)  
PH: # 091-9210529



7

**GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT**

Dated Peshawar July 19, 2021

**NOTIFICATION**

**NO. SO(E-I)/E&AD/5-168/2021.** The Competent Authority is pleased to post Mr. Muhammad Arshad (PCS SG BS-20), awaiting posting in Establishment Department as Member-I, Board of Revenue, Khyber Pakhtunkhwa, against the vacant post, in the best public interest, with immediate effect.

**CHIEF SECRETARY  
GOVERNMENT OF KHYBER PAKHTUNKHWA**

**ENDST. NO. & DATE EVEN.**

Copy forwarded to the:-

1. Additional Chief Secretary, P&D Department.
2. Senior Member Board of Revenue, Khyber Pakhtunkhwa
3. Principal Secretary to Governor, Khyber Pakhtunkhwa
4. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. All Divisional Commissioners in Khyber Pakhtunkhwa.
6. Accountant General, Khyber Pakhtunkhwa.
7. All Deputy Commissioners in Khyber Pakhtunkhwa.
8. Director General, Information & P.Rs Khyber Pakhtunkhwa.
9. PSO to Chief Secretary, Khyber Pakhtunkhwa.
10. PS to Secretary (Estt)/Special Secretary (Estt)/ Special Secretary (R)/PA to AS(Estt)/AS (HRD)/ SO(Secret)/ SO(HRD-I) & SO(E-II) Establishment Department.
11. PS to Secretary (Admn)/AS(Admn)/D.S.(Admn)/SO(Transport)/Estate Officer/DD(IT) and ACSO Cypher Administration Department.
12. Officer concerned.
13. Manager, Govt. Printing Press Peshawar.

(ZIA-UL-HAQ)

SECTION OFFICER (ESTT. I)

PH: # 091-9210529

**IMDAD KHAN\*\***



GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT

Dated Peshawar March 4, 2022

NOTIFICATION

NO.SO(E-I)/ESAD/I-1/2022 (V). The following postings/transfers of officers are hereby ordered, in the public interest, with immediate effect.

SR.#	NAME OF THE OFFICER	FROM	TO
1	Syed Zoya Ali Shah (PAS BS-21)	Senior Member Board of Revenue, Pakhtunkhwa	Report to Establishment Department
2	Mr Zahir Hussain Akbar (PCS EG BS-21)	Secretary, Labour Department	Senior Member Board of Revenue, Khyber Pakhtunkhwa vice Sr No 1
3	Mr Rooh-Ullah (PCS EG BS-21)	Member-II, Board of Revenue	Secretary, Labour Department vice Sr. No. 2
4	Mr Muhammad Ali Shah (PCS EG BS-20)	Secretary, Housing Department	Report to Establishment Department
5	Dr Ambar Ali Khan (PAS BS-20)	Awaiting posting in Establishment Department	Secretary, Housing Department vice Sr. No 4
6	Mr. Muhammad Yahya Akhuzada (PAS BS-20)	Secretary, Elementary & Secondary Education Department.	Report to Establishment Department
7	Mr Motasim Billah Shah (PMS BS-20)	Special Secretary, Local Government, Elections & Rural Dev. Department	Secretary, Elementary & Secondary Education Department Vice Sr. No. 6
8	Mr. Muhammad Arshad (PCS SG BS-20)	Member-I Board of Revenue	Report to Establishment Department
9	Mr Ghazanfar Ali (PMS BS-20)	Awaiting posting in Establishment Department.	Director General, Commerce & Management Sciences, Khyber Pakhtunkhwa vice Sr. No 12
10	Mr. Fazal Khaliq (PAS BS-19)	Awaiting posting in Establishment Department	Member-I, Board of Revenue (OPS) vice Sr. No. 8.
11	Syed Muhammad Farruhsaqtain (PMS BS-20)	Director General, Population Welfare Khyber Pakhtunkhwa	Member-II, Board of Revenue vice Sr. No. 3
12	Mr. Ihsanullah (PCS EG BS-20 a.c.b.)	Director General, Commerce & Management Sciences, Khyber Pakhtunkhwa	Member-III, Board of Revenue, against the vacant post.
13	Ms Ayesha Insan (BS-20)	Additional Director General, Population Welfare, Khyber Pakhtunkhwa	Director General, Population Welfare, Khyber Pakhtunkhwa vice Sr. No. 11.

CHIEF SECRETARY  
GOVERNMENT OF KHYBER PAKHTUNKHWA

ENDST. NO. & DATE EVEN.

Copy forwarded to the:-

1. Senior Member Board of Revenue, Khyber Pakhtunkhwa.
2. Additional Chief Secretary, P&D Department.
3. Principal Secretary to Governor, Khyber Pakhtunkhwa
4. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. All Administrative Secretaries to Govt of Khyber Pakhtunkhwa.
6. All Divisional Commissioners in Khyber Pakhtunkhwa.
7. Accountant General, Khyber Pakhtunkhwa.
8. Director General, Commerce & Management Sciences, Khyber Pakhtunkhwa.
9. Director General, Population Welfare Khyber Pakhtunkhwa
10. All Deputy Commissioners in Khyber Pakhtunkhwa.
11. Director (PD), Establishment Division, Islamabad.
12. Director General, Information & P.Rs Khyber Pakhtunkhwa.
13. Section Officer (E-5/PAS), Establishment Division, Islamabad.
14. PSO & PS to Chief Secretary, Khyber Pakhtunkhwa.
15. PS to Secretary (Estt)/Special Secretary (Estt)/ Special Secretary (R)/PA to AS(Estt)/AS (HRD)/SO(Secret)/ SO(HRD-I) & SO(E-II) Establishment Deptt.
16. PS to Secretary (Admn)/AS(Admn)/D.S.(Admn)/SO(Transport)/Estate Officer/DD(IT) and ACSO Cypher Administration Department.
17. Officers concerned.
18. Manager, Govt. Printing Press Peshawar.

(ZIA.UL.HAQ)  
SECTION OFFICER (ESTT. I)

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Annex-IV

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# ESTA CODE

**ESTABLISHMENT CODE KHYBER PAKHTUNKHWA  
( REVISED EDITION ) 2011**

**A COMPENDIUM OF LAWS, RULES AND INSTRUCTIONS  
RELATING TO THE TERMS AND CONDITIONS  
OF PROVINCIAL CIVIL SERVANTS**

**COMPILED BY;  
(O&M) SECTION  
ESTABLISHMENT & ADMINISTRATION DEPARTMENT**

10

### Posting and Transfer

#### Statutory Provision.

#### Section 10 of the NWFP Civil Servants Act, 1973.

**Posting and Transfer.** Every civil servant shall be liable to serve anywhere within or outside the Province, in any post under the Federal Government, or any Provincial Government or Local authority, or a Corporation or body set up or established by any such Government:-

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

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

#### 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) Existing tenure of posting/transfer of three (03) years for settled areas and two (02) years for unattractive/hard areas shall be reduced to two (02) years for settled areas, 01½ years for unattractive areas and one year for hard areas.
- v) <sup>79</sup>[ ]

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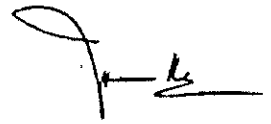
Para-1(v) regarding months of March and July for posting/transfer and authorities for relaxation of ban deleted vide letter No: SUR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-6-2008. Consequently authorities competent under the NWFP Government Rules of Business, 1985, District Government Rules of Business 2001, 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.

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- vi) <sup>80</sup>While making posting/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. Save Tehsildars/Naib Tehsildars within a division in respect of whom the concerned Commissioner will exercise the same power. 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.

Provided that the power to transfer Political Tehsildars and Political Naib Tehsildars within FATA between different divisions shall rest in Additional Chief Secretary FATA.

- 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.
- viii) No posting/transfers of the officers/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





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<sup>81</sup> DCOs 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: a) Within the same Department b) To and from an Attached Department c) Within the Secretariat from one Department to another	Secretary of the Department concerned. Secretary of the Department in consultation with Head of Attached Department concerned. 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.

<sup>81</sup> Added vide Urdu circular letter No: SOR-VI (E&AD)/1-4/2005, dated 9-9-2005.

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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 posting/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.

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.

5. 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-VIE&AD/1-4/2003 dated 24-6-2003).

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**Identification of Unattractive/Hard Areas policy;**

I am directed to refer to the subject and to say that the Provincial Cabinet in its meeting held on 30<sup>th</sup> March, 2010 inter-alia approved the following for the purpose of Posting/ Transfer Policy:-

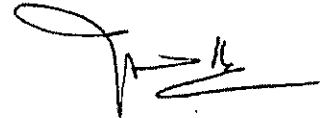
1. The distinction between unattractive/hard areas should be done away with and both should be labeled as Unattractive areas.
2. Existing list of FATA areas be retained.
3. The following areas were recommended/approved to constitute unattractive areas in NWFP:-

- a. Kohistan District.
- b. Tank District.
- c. Chitral District.
- d. Battagram District.
- e. Shangla District.
- f. Hungu District.
- g. PATA areas of Mansehra (Kala Dhaka)

**Tenure of posting.**

- i. The erstwhile normal tenure of 2 years be retained.
- ii. Existing tenure for unattractive areas be retained. However, in case of married civil servants, transfer should be made just at the beginning of school session and tenure should be one year instead of 1.5 year, so that academic disruptions are avoided.
- iii. At the time of entry in service, all civil servants be asked to give 4 options from unattractive areas.
- iv. After a stint of service in unattractive area, employees may be offered option to serve in district of choice.

(Authority; letter No. SOR-VI/E&AD/1-4/2010/Vol-VIII, Dated. 10<sup>th</sup> April, 2010)



Annex-V  
15

PS/Secy E&AD/KP  
Diary No. 705/7  
FTS No. 7-3-22  
Date. 7-3-22

To.

The Secretary, Establishment Department,  
Government of Khyber Pakhtunkhwa, Civil Secretariat,  
Peshawar.

PL  
Jk to  
Secy Estab  
7-3-22

Subject:

DEPARTMENTAL APPEAL UNDER PARA. 1 (XIV) OF THE POSTING/TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT ISSUED VIDE LETTER NO. SOR-VI/E&AD/I-4/2003 DATED 24.06.2003 AGAINST THE IMPUGNED POSTING/TRANSFER NOTIFICATION NO. SO(E-I)/E&AD/I-1/2022(V) DATED 04.03.2022.

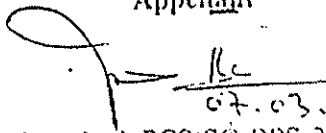
**Prayer:** The posting/transfer order of the appellant being issued in violation of the law may please be cancelled/set aside.

Enclosed please find herewith an appeal in original addressed to the honourable Chief Minister, Khyber Pakhtunkhwa for information and necessary action. The appeal is spread over a total of twenty-four (24) pages with following break-up:-

i.	Index	:	One (01) page.
ii.	Text of the Appeal:	:	Three (03) pages.
iii.	Annexes	:	Four (04) spread over nine (09) pages.
<u>Total Pages</u>		:	<u>1+3+9=13</u>

Dated 07.03.2022.

Appellant

  
07.03.2022  
Mohammad Arshad, PCS(SG-BPS-20), Member-I, Board of Revenue, Revenue & Estate Department.  
Mailing Address: House No. 11, Provincial Civil Officers Colony, Dabgari Gardens (New), Opposite Habib Medical Complex, Dabgari Gardens, Peshawar Cantt.  
CNIC No. 15402-9170027-1  
Email Address: arshadedo@gmail.com  
Mobile No. 0348-9745323

To,

The Honourable Chief Minister,  
Khyber Pakhtunkhwa.  
Through Proper Channel.

16

Subject:

DEPARTMENTAL APPEAL UNDER PARA. 1 (XIV) OF THE POSTING/TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT ISSUED VIDE LETTER NO. SOR-VI/E&AD/I-4/2003 DATED 24.06.2003 AGAINST THE IMPUGNED POSTING/TRANSFER NOTIFICATION NO. SO(E-I)/E&AD/I-1/2022(V) DATED 04.03.2022.

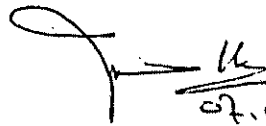
**Prayer:** The posting/transfer order of the appellant being issued in violation of the law may please be cancelled/set aside.

## INDEX

S. No.	Description of the Document	Annex	Page No.
1	Index.		1
2	Text of the Appeal.		2-4
3	Posting/Transfer Order dated 09.07.2020.	Annex-I	5
4	Posting/Transfer Order dated 19.07.2021.	Annex-II	6
5	Posting/Transfer Order dated 04.03.2022.	Annex-III	7
6	Posting/Transfer Policy of the Provincial Government.	Annex-IV	8-13

Dated 07.03.2022.

Appellant

  
07.03.2022

Mohammad Arshad, PCS(SG-BPS-20), Member-I, Board of Revenue, Revenue & Estate Departmentt.

Mailing Address: House No. 11, Provincial Civil Officers Colony, Dabgari Gardens (New), Opposite Habib Medical Complex, Dabgari Gardens, Peshawar Cantt.

CNIC No. 15402-9170027-1

Email Address: arshadedo@gmail.com

Mobile No. 0348-9745323

To,

The Honourable Chief Minister,  
Khyber Pakhtunkhwa.  
Through Proper Channel.

17

Subject: DEPARTMENTAL APPEAL UNDER PARA. 1 (XIV) OF THE POSTING/TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT ISSUED VIDE LETTER NO. SOR-VI/E&AD/1-4/2003 DATED 24.06.2003 AGAINST THE IMPUGNED POSTING/TRANSFER NOTIFICATION NO. SO(E-I)/E&AD/1-1/2022(V) DATED 04.03.2022.

Prayer: The posting/transfer order of the appellant being issued in violation of the law may please be cancelled/set aside.

Sir,  
Respectfully submitted that:-

Facts of the Case

1. The Government of Khyber Pakhtunkhwa, Establishment Department ordered the posting/transfer of the appellant from Director, Khyber Pakhtunkhwa Higher Education Academy of Research and Training (HEART), Peshawar to Establishment Department vide notification No. SO(E-I)/E&AD/9-88/2020 dated 09.07.2020 and remained posted on the post of Officer on Special Duty (OSD) for more than a year (Annex-I).
2. The appellant remained posted on the post of Officer on Special Duty (OSD) for more than one year until posted against the post of Member-I, Board of Revenue, Revenue & Estate Department vide Establishment Department notification No. SO(E-I)/E&AD/5-168/2021 dated 19.07.2021 (Annex-II).
3. The Government of Khyber Pakhtunkhwa, Establishment Department ordered the posting/transfer of the appellant from the post of Member-I, Board of Revenue, Revenue & Estate Department and directed to report to Establishment Department after seven (07) months and six (06) days stay on the post, meaning thereby without completing normal tenure of two (02) years on the post vide impugned notification No. SO(E-I)/E&AD/1-1/2022(V) dated 04.03.2022 (Annex-III).
4. The copy of the Posting/Transfer Policy of the Provincial Government issued vide Establishment Department letter No. SOR-VI/E&AD/1-4/2003 dated 24.06.2003 and subsequent amendment in it vide letter dated 10.04.2010, reported at Pages-80-83 and 93 respectively of the ESTA CODE (Revised Edition), 2011 are annexed herewith as (Annex-IV).

Grounds of the Case

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5. The appellant feeling aggrieved from the impugned posting/transfer order, submits the instant appeal on the following grounds amongst others:-
- i. That, the appellant has not been treated according to law, which is the inalienable right of every citizen, as enshrined in Article 4 of the Constitution of Islamic Republic of Pakistan, 1973. The adverse action against the appellant is also in violation of fundamental right to fair trial and due process guaranteed under Article 10A of the Constitution.
  - ii. That, Para. 1(iv) of the Posting/Transfer Policy provides that "Existing tenure of posting/transfer of three (03) years for settled areas and two (02) years for unattractive/hard areas shall be reduced to two (02) years for settled areas, one and a half (1.5) years for unattractive and one year for hard areas." The distinction between unattractive and hard areas was subsequently done away with and both were labeled as unattractive areas vide letter dated 10.04.2010 mentioned above at Para. 4.
  - iii. That, Para. 1(xiv) of the Posting/Transfer Policy provides that "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 could be exercised only in the following cases. (i) Pre-mature posting/transfer or posting/transfer in violation of the provisions of this policy. (ii) Serious and grave personal (humanitarian) grounds."
  - iv. That, it is evident from the record that the appellant was posted on the post of Member-I, Board of Revenue on 19.07.2021 and now posted out of it on 04.03.2022. It means the total tenure spent on the post is 07 months and 06 days while normal tenure on the post is 02 years for the settled areas which is in violation of the law, thus appealable.
  - v. That, making the appellant as OSD time and again without any reason is in violation of the judgement/order of the august Supreme Court of Pakistan in Constitutional Petition No. 23/2012, titled Anita Turab-v-Federation of Pakistan and reported as PLD 2013 SC 195. The concerned officers are committing a contempt of court and the appellant is seriously considering filing a contempt of court case/petition against the violators in the august Supreme Court of Pakistan.

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- vi. That, making the appellant as OSD time and again is also in violation of the Provincial Government own instructions issued vide Establishment Department letter No. SOR.VI(E&AD)1-4/2005/Vol-II dated 27.02.2013 as a sequel to the above judgement.
- vii. That, junior officers are working against Secretaries posts and some officers hold posts on additional charge but the appellant is time and again denied posting on a scheduled post. The appellant, therefore, suffers a big financial loss without any rhyme or reason and without any trial.

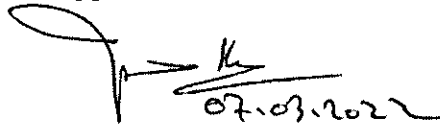
**PRAYER**

Keeping in view the above-mentioned facts and law on the subject, it is, therefore, prayed that:-

- (i) The impugned posting/transfer notification dated 04.03.2022 being in violation of law may please be cancelled/set aside and the appellant be allowed to serve on the post of Member-I, Board of Revenue till completion of normal tenure of two (02) years on the post.
- (ii) The appellant also desires and prays to be given a chance of personal hearing in the case.

Dated 07.03.2022.

Appellant

  
07.03.2022

Mohammad Arshad, PCS(SG-BPS-20), Member-I, Board of Revenue, Revenue & Estate Departmentt.  
• Mailing Address: House No. 11, Provincial Civil Officers Colony, Dabgari Gardens (New), Opposite Habib Medical Complex, Dabgari Gardens, Peshawar Cantt.  
CNIC No. 15402-9170027-1  
Email Address: arshadedo@gmail.com  
Mobile No. 0348-9745323



1

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

**Service Appeal No. 414/2022**

Muhammad Arshad.....Appellant

**Versus**

Govt. of Khyber Pakhtunkhwa & Others.....Respondents

**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS**

**INDEX**

<b>S. #</b>	<b>Description of Documents</b>	<b>Annex/ Flag</b>	<b>Pages</b>
1.	Comments		2-3
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Muhammad Arshad.....Appellant

VERSUS

Govt. of Khyber Pakhtunkhwa through Chief Secretary & others.....Respondents

APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 (KHYBER PAKHTUNKHWA ACT NO. 1 OF 1974) AGAINST THE IMPUGNED POSTING/TRANSFER NOTIFICATION NO. SO(E-I)/E&AD/1-1/2022(V) DATED 04.03.2022:

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 & 2

Respectfully Sheweth,

PRELIMINARY OBJECTIONS

1. This Honourable Services Tribunal has no jurisdiction to entertain the instant appeal.
2. That the appellant has got no cause of action/locus standi to file the instant appeal against the respondents.
3. That the present appeal is not maintainable.
4. That the appellant has presented the facts in manipulated form which disentitles him for any relief whatsoever.
5. That the appellant has not come to this Honourable Services Tribunal with clean hands.
6. That the appeal is bad for mis-joinder and non-joinder of necessary parties.

ON FACTS


1. Correct.
2. Correct.
3. Correct to the extent that the appellant was transferred from the post of Member-I, Board of Revenue and directed him to report to Establishment Department on 04.03.2022 in best public interest as the appellant has not satisfactorily performed his duties due to which the ratio of public service delivery was decreased day by day.
4. Correct.
5. Correct to the extent of submission of Appeal by the appellant, wherein, the appellant has requested for his further posting. However, due to non-availability of suitable post, request of the appellant cannot be acceded and still is under consideration.

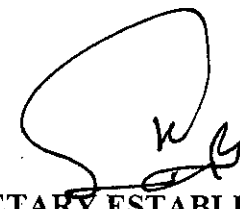
**ON GROUNDS**

- 6. Needs no comments.
- i. Incorrect. The appellant is being treated according to prevailing law/rules and no rights of the appellant infringed. The appellant is presently awaiting for posting in Establishment Department alongwith some other officers and he will be posted against suitable post within due course of time.
- ii. Correct to the extent of posting/transfer policy. However, the appellant was transferred from the post of Member-I, Board of Revenue as the appellant was not satisfactorily performing his duties due to which the ratio of public service delivery was decreased day by day.
- iii. As explained at Sr. No. 5 of the facts.
- iv. As explained at Sr. No. 3 of the facts.
- v. Incorrect. The appellant was transferred from the post of Member-I, Board of Revenue and directed him to report to Establishment Department in the best public interest.
- vi. As explained at Sr. No. i above.
- vii. Incorrect. The appellant is a PCS SG BS-20 officer and no BS-20 officer is currently holding additional charge of any BS-20 schedule post.

**PRAAYER:**

It is, therefore, most humbly prayed that the instant appeal, being devoid of merit, may very graciously be dismissed with costs.

  
**CHIEF SECRETARY  
 KHYBER PAKHTUNKHWA  
 (RESPONDENT NO. 01 & 02)**

  
**SECRETARY ESTABLISHMENT  
 KHYBER PAKHTUNKHWA  
 (RESPONDENT NO. 03)**

**“B”**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
**JUDICIAL COMPLEX (OLD), KHYBER ROAD, PESHAWAR.** *S.B*

No.

Appeal No. *516* of 20 *22*

*Mohammad Ashad* Appellant/Petitioner

Versus

*The Govt. of KPK Chief Secy* Respondent

Respondent No. *1*

Notice to: *The Govt. of KPK through Chief Secretary Peshawar.*

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on *29/6/2022* at 8:00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No. .... dated .....~~

Given under my hand and the seal of this Court, at Peshawar this *10/6/2022*

Day of *June* 20 *22*

*for Reply*

ISSUE BRANCH  
 CHIEF SECRETARY  
 Govt. of Khyber Pakhtunkhwa  
 Peshawar

*22*

Registrar,  
 Khyber Pakhtunkhwa Service Tribunal,  
 Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
 2. Always quote Case No. While making any correspondence.

**“B”**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
**JUDICIAL COMPLEX (OLD), KHYBER ROAD, PESHAWAR.** *S.B*

No.

Appeal No. *414* of 20 *22*

*Mohammad Ashad* Appellant/Petitioner

Versus

*The Govt. of KPK Chief Secy:* Respondent

Respondent No. *2*

Notice to: —

*The Chief Secretary KPK Peshawar.*

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on *29/6/2022* at 8.00 A.M. If you wish to urge anything against the appellants/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No. .... dated .....~~

Given under my hand and the seal of this Court, at Peshawar this *10th* .....

Day of *June* 20*22*

*for Reply*

*[Signature]*  
 ISSUED AT  
 CHIEF SECRETARY  
 Govt. of Khyber Pakhtunkhwa  
 Peshawar

Registrar,  
 Khyber Pakhtunkhwa Service Tribunal,  
 Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
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"B"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.  
JUDICIAL COMPLEX (OLD), KHYBER ROAD, PESHAWAR. S.B

No.

Appeal No. 414 of 20 22

Mohammed Arshad Appellant/Petitioner

Versus

the Govt. of KP Chief Secy. Respondent

Respondent No. 3

Notice to:

the Secretary Establishment Deptt.  
KP Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on 29/6/2022 at 8.00 A.M. If you wish to urge anything against the appelland/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this 10/6

Day of June 20 22

for Reply

[Signature]  
AD KF  
Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.  
Diary No. \_\_\_\_\_

Note: 1. The hours of attendance in the court are the same as of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.  
Date: \_\_\_\_\_