

18.07.2022

Appellant alongwith his counsel Mr. Asad Nabi, Advocate present.

Preliminary arguments heard.

Points raised need consideration. The appeal is admitted to regular hearing, subject to all just and legal objections. 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. To come up for reply/comments before the S.B on 19.09.2022.



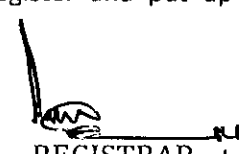


(Mian Muhammad)
Member (E)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- _____ 665/2022 _____


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	09/05/2022	<p>The appeal of Mr. Arshad Kamal resubmitted today by Mr. Asad Nabi 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-	12/5/22	<p>This case is entrusted to Single Bench at Peshawar for preliminary hearing to be put there on <u>13/5/22</u>. Notices be issued to appellant and his counsel for the date fixed.</p> <p style="text-align: right;"> CHAIRMAN</p>
	13.05 2022	<p>Appellant in person present and requested for adjournment as his counsel is not available today. Adjourned. To come up for preliminary hearing before the S.B 18.07.2022.</p> <p style="text-align: right;"> (Kalim Arshad Khan) Chairman</p>

This is an appeal filed by Mr. Arshad Kamal today on 30/03/2022 against impugned transfer notification dated 04-02-2022 against which he preferred/made departmental appeal/ representation on 04.02.2022 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, which is premature as laid down in an authority report as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant/Counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action.

No. 815/ST,


Dt. 30-3-2022.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Asad Nabi Adv. Pesh.

NOTE
Reconsider with status that as per direction
of rule 17 sign cut return the appeal
appart to this rule 17, please
Peruse page no 85.

Adv Asad Nabi


31/3/2022

KHYBER PAKHTUNKHWA SERVICES TRIBUNAL, PESHAWAR

CHECK LIST

ARSHAD KAMAL **Versus**

Govt employees

..... Appellant

..... Respondents

S NO	CONTENTS	YES	NO
1.	This petition has been presented by: <u>Advocate</u> <u>Court</u>	√	
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?	x	
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:- _____

Signature:- _____

Dated:- _____

BEFORE THE KHYBER PAKHTUNKHWA, SERVICES TRIBUNAL,
PESHAWAR

Service Appeal No. 665 /2022

ARSHAD KAMAL SUPERINTENDENT, OFFICE OF THE
DEPUTY COMMISSINER CHARSAJDA.....**Appellant**

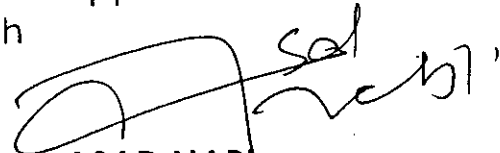
VERSUS

Govt. of Khyber Pakhtunkhwa,
Chief Secretary & others.....**Respondents**

I N D E X

S.No	DESCRIPTION OF DOCUMENTS	ANNEX	PAGES
1.	Service Appeal		1-5
2.	Affidavit		6
3.	Addresses of the parties		7
4.	Copy of the ID CARD	A	8
5.	Copy of THE AGENDA	B	9-13
6.	COPY OF IMPUGNED NOTIFICATION	C	14
7.	COPY of departmental appeal order	D	15-17
8.	COPY OF APPEAL AND ORDER	E&F	18-19
9.	Copy of writ and order	G	20-28
10.	Wakalatnama		

Through _____ Appellant 


ASAD NABI

Advocate, Peshawar
Cell: 0345-9122165

Dated: 29/03/2022

BEFORE THE KHYBER PAKHTUNKHWA, SERVICES TRIBUNAL, *
PESHAWAR

Service Appeal No. _____/2022

ARSHAD KAMAL SUPERINTENDENT, OFFICE OF THE
DEPUTY COMMISSINER CHARSAJDA.

.....Appellant

V E R S U S

1. Govt. of Khyber Pakhtunkhwa, Chief Secretary,
Civil Secretariat, Peshawar
2. Govt. of Khyber Pakhtunkhwa, through Secretary
Establishment Department, Civil Secretariat,
Peshawar
3. Senior Member Board of Revenue, Civil Secretariat,
Peshawar.
4. Zahid Ur Rehman, Superintendent Deputy
Commissioner Office, Nowshera

.....Respondents

**SERVICE APPEAL U/S 4 OF THE KPK
SERVICE TRIBUNAL ACT, 1974 AGAINST
THE IMPUGNED NOTIFICATION
NO.ESTT:II POSTING/TRANSFER/3169-74
DATED 04-02-2022 WHEREBY THE
APPELLANT HAS BEEN TRANSFER FROM
SUPERINTENDENT OFFICE DEPUTY
COMMISSIONER CHARSAJDA TO
SUPERINTENDET OFFICE DEPUTY
COMMISSIOER NOWSHERA WITHOUT**

**APPLYING ANY RULE AND
REGULATION/ POLICIES.**

Respectfully Sheweth:

Precisely, stating the facts of the case out of which the present appeal arises are as under:

1. That the appellant was posted as Superintendent in the office of deputy commissioner Charsadda office vide office order dated 18-11-2020, prior to transfer the petitioner was posted in same post in district Khyber and since then no complainant has been recorded against the petitioner. Copy of the ID card is attached as annexure A.
2. That prior to transfer the petitioner in charsadda the petitioner was posted as superintendent at district Khyber where he spent most of years but after the government Policy in agenda no 12 reshuffling of ministerial staff in NMDs the petitioner has been transfer from Distrcit khyber to district Charsada on 18-11-2020. More over in the ibid policy agenda/ cabinet decision the criteria for transfer of employee has categorically mention the employee who spent more than 2 year in one station will be transfer. Copy of the policy/ agenda 12 is attached is annexure B.
3. That in district Charsadda the petitioner is working to entire satisfaction to his high ups with quite zeal

and spite being a well experienced and remain cooperate and no complaint whatsoever has been recorded against the petitioner but petitioner was astonished to see the impugned notification for his transfer despite the facts that the petitioner has served about one year therefore posting order is against the cabinet decision as well as against the posting/ transfer policy of the provincial government. Copy of Impugned notification is attached as annexure C.

4. That being aggrieved from the transfer order the petitioner has filed departmental appeal before the respondent no 3 but he straight away verbally issued direction to the deputy commissioner Charsadda to implementation status of transferee and refused to accept the departmental appeal. Copy of appeal is attached as annexure D.
5. That being from the impugned action and in action /verbal order of respondent no 3 the petitioner has filed file the instant appeal on the following grounds inter alia.

GR OUNDS:

- A. That notification for transfer of petitioner is illegal Coram non juice void ab-initio and infective upon the right of the appellatant.

- B. That the employee replacing the appellant already transfer through same order in which the appellant has been transfer from district Khyber to District charsadda wherein he too spent almost 12 month so the same reason the transfer order is illegal and is liable to be set aside.
- C. That on the same subject this honorable tribunal also granted stay order by suspending the operation of the impugned transfer order in service appeal no 63-2022 titled SHAHID ALI VS GOVT OF KPK AND OTHERS and next date of hearing is fixed as 21-02-2022. Copies of the petition and order are attached as annexure E&F respectively.
- D. That as per government cabinet decision for having more than 2 year at one station is mandatory for any government official as well as the posting/ transfer policy of the provincial government until any complainant what so ever has been recorded but in the instant case respondent has willfully violate the uniform policy which is against the norms of justice.
- E. That due to action and in action of respondent by not fallow the procedure the appellant has been made rolling stone which has depreciated by the apex courts of the country.

- F. That as per dictum of apex courts the policies procedures have been follow as per prescribe procedure but In the instant case the same been not done which is against the fundamental rights of appellant guaranteed by the constitution of land.
- G. That due to non functioning of this honorable tribunal appellant approached to the honorable Peshawar high court wherein directed the appellant to approached to this honorable tribunal with status quo. Copy of writ petition and order is attached as annexure G.
- H. That the appellant seeks leave of this Hon'ble Tribunal to raise /argue any additional point.

It is, therefore, most humbly prayed that on acceptance of this appeal, the notification dated 04-02-2022 for premature transfer may very kindly be declared illegal ab-initio Coram no judge infective upon the right of the appellant and liable to be set aside any other relief which has not been specifically asked may very kindly be granted in favour of appellant.

Through

Appellant

ASAD NABI

Advocate, Peshawar

Dated: 08-02-2022

BEFORE THE KHYBER PAKHTUNKHWA, SERVICES TRIBUNAL,
PESHAWAR

Service Appeal No. _____/2022

ARSHAD KAMAL SUPERINTENDENT, OFFICE OF THE
 DEPUTY COMMISSINER CHARSADDA.....**Appellant.**

V E R S U S

Govt. of Khyber Pakhtunkhwa,
 Chief Secretary & others.....**Respondents**

AFFIDAVIT

I, ARSHAD KAMAL SUPERINTENDENT, OFFICE OF THE
 DEPUTY COMMISSINER CHARSADDA, do hereby
 solemnly affirm and declare on oath that the contents
 of the accompanying **Service Appeal** are true and
 correct to the best of my knowledge and belief and
 nothing has been kept concealed from this Hon'ble
 Court.


DEPONENT

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

Service Appeal No. _____/2022

ARSHAD KAMAL SUPERINTENDENT, OFFICE OF THE
DEPUTY COMMISSINER CHARSADD.....**Appellant**

V E R S U S

Govt. of Khyber Pakhtunkhwa,
Chief Secretary & others.....**Respondents**

ADDRESSES OF THE PARTIES

A P P E L L A N T:

ARSHAD KAMAL SUPERINTENDENT, OFFICE OF THE
DEPUTY COMMISSINER CHARSADD

R E S P O N D E N T S:

1. Govt. of Khyber Pakhtunkhwa, Chief Secretary,
Civil Secretariat, Peshawar
2. Govt. of Khyber Pakhtunkhwa, through Secretary
Establishment Department, Civil Secretariat,
Peshawar
3. Senior Member Board of Revenue, Civil Secretariat,
Peshawar
4. Zahid Ur Rehman, Superintendent Deputy
Commissioner Office, Nowshera

Through

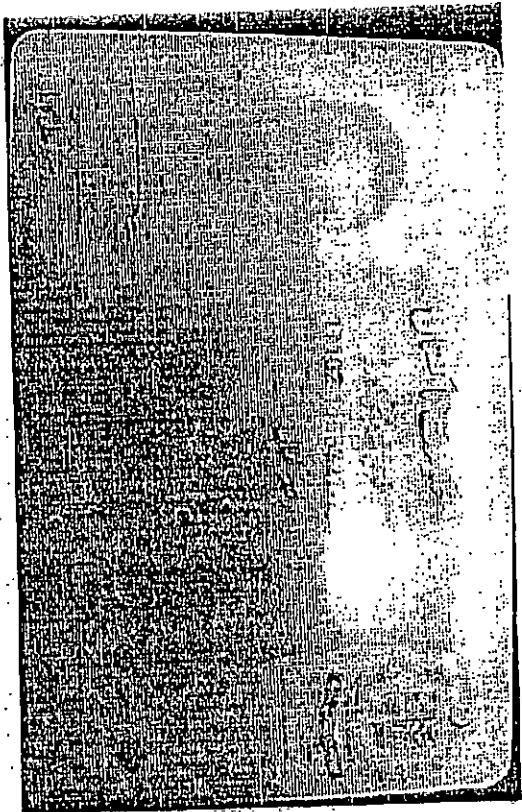
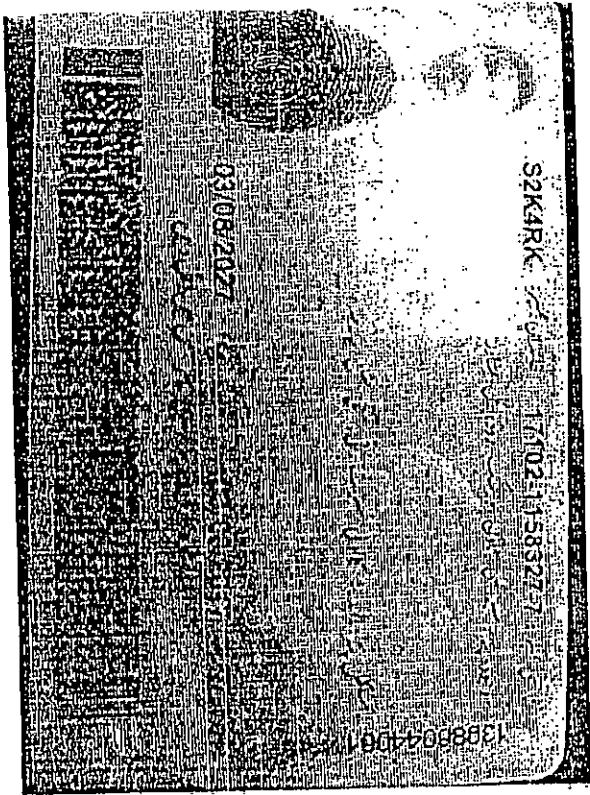
Appellant

ASAD NABI
Advocate, Peshawar

Dated: 24/03/2022

Answer UK A

8



ATTESTED

by [Signature]

1:04 PM



Agenda No. 12 : Reshuffling of Ministerial Staff in NMDs

District Administration Khyber, Govt. of KP

Agenda No. 12 : Reshuffling of Ministerial Staff in NMDs

Dated: 27-Dec-2021

(9)

(10)

Amree B

Amree B

Ref: NO: T7258C

Task: Agenda No. 12 : Reshuffling of Ministerial staff in NMDs:

Assign Date: 03-Sep-2020

Due Date: 10-Sep-2020

This task is assigned by Chief Secretary KP

Description: Dear Sir,

The Chief Secretary expressed dissatisfaction over reshuffling of Ministerial staff in NMDs and desired that the task may be completed in true spirit and ministerial staff who are working on same assignment for a long period of time or enjoys ill reputation may be reshuffled and report may submitted, please.

Assigned To

- DC Khyber Completed on 9th of September 2020 12:18 PM
- DC Mohmand Completed on 11th of September 2020 04:09 PM
- DC South Waziristan Completed on 9th of September 2020 08:43 PM
- DC North Waziristan Completed on 9th of September 2020 10:19 PM
- DC Kurram Completed on 7th of September 2020 05:12 PM
- DC Orakzai Completed on 7th of September 2020 05:18 PM
- DC Bajaur Completed on 3rd of September 2020 03:50 PM

All Responses


- DN DC North Waziristan 9th of September 2020 10:30 PM
The requisite report is hereby attached as desired please.
- DS DC South Waziristan 9th of September 2020 08:03 PM
Posting/Transfer order is attached please
- DK DC Khyber 9th of September 2020 12:16 PM
{ As per previous direction of the Provincial Government all the Ministerial Staff of District Administration Khyber have already been transferred vide this Office Order No. 4310-13, dated 13.11.2019. They have served for less than one year on their present postings. Moreover, several official after that have also transferred from administration from administrative point of view please.
- DM DC Mohmand 11th of September 2020 04:09 PM
The requisite report is hereby attached as desired please.
- DC DC Orakzai 7th of September 2020 05:18 PM
The requisite report is submitted as desired please.
- DK DC Kurram 7th of September 2020 05:12 PM
Posting/Transfer order of Ministerial Staff is attached herewith, please.
- DB DC Bajaur 3rd of September 2020 03:50 PM
The requisite report is attached herewith is submitted for information please.

<https://pms.kpdata.gov.pk/track/activities/7254/task/7258>

ATTESTED

(10)

(11) (12)


PSO TO CHIEF SECRETARY
KHYBER PAKHTUNKHWA

MINUTES OF THE DISTRICT PERFORMANCE REVIEW MEETING

Meeting of District Performance Review was held on 10-08-2020 under the Chairmanship of Chief Secretary, Pakhtunkhwa Khyber Pakhtunkhwa. The following agenda items were presented, discussed and decisions taken for implementation.

Agenda Item	Discussion/Decisions	Action By/ Timelines
1	<p>Chief Secretary</p> <p>The Chief secretary Khyber Pakhtunkhwa appreciated the efforts of District administrations in Covid-19. The Prime Minister of Pakistan assigns top priority to Price Control and a progress review meeting is done by the PM Office on a weekly basis. That in turn is because of the fact that this subject affects the common man. This is obviously top priority area and the administration need to assign the same level of priority to this particular agenda item.</p> <p>In conjunction with Price Control of Essential commodities, issues of Anti-Adulteration and Anti-hoarding are of paramount importance.</p> <p>DCs need to convene a meeting of the administration and food department at the District level ensure availability of the subsidized Atta at the Sale Points so that the benefit of subsidy is accrued to the common man.</p> <p>Of all the essential commodities, Wheat, Atta and Sugar are of paramount importance. Similarly, adulteration in Milk, Oil, Water and Meat are critical to the public health. These aspects of the Price Control, and Anti-adulteration requires personal attention of the Deputy Commissioner.</p>	All DCs (01 month)
2	<p>Food Security</p> <p>Secretary Food made a presentation on the overall performance of district administration in supply food management. He added that subsidized atta is being provided on daily basis to all districts. The chair directed to curtail undue margin accrued by shopkeepers from the flour/wheat brought from Punjab.</p>	All DCs (01 month)
3	<p>Anti-Adulteration & Price Control</p> <p>The administrative structure of Halal Food Authority is operational at the Divisional HQ level but that in no conceivable way mean that other districts are not invested with the legal and administrative authority to take Price Control and Anti-adulteration actions against violations.</p> <p>Under the new strategy of Persuasive Enforcement for Price Control and Anti-adulteration the administrations need to discuss the new</p>	All DCs & DG HFSA (01 Month)

ATTESTED

(11)

	<p>strategy with the officers of Halal Food Authority and deploy various components of Persuasive Enforcement on priority basis. DCs and ACs need to proactively undertake various initiatives for Persuasive Enforcement for Price Control and Anti-adulteration.</p> <p>North Waziristan and Lower Kohistan have done exceptionally well on Price Control and Anti-adulteration actions and it is evident that if these two districts can produce such progress then there is no reason for any other district to do otherwise.</p>	(12)
4	<p>Dengue Control Campaign</p> <p>Secretary Health highlighted presence of Dengue Larva in districts Haripur, Khyber, Swat, Peshawar and Nowshera. The Chair directed that hard work already done on Dengue must not be spoiled. No laxity on the issue to be tolerated.</p> <p>All DCs were directed to carry out larvicidal activities through DHOs.</p>	All DCs (01 month)
5	<p>Anti-Encroachment Drive</p> <p>Anti-encroachment operations need to be very focused and surgical. Especially, these operations need to target those encroachments that are the most glaring, difficult and challenging. Meaningful actions need to be taken and it must be seen. Anti-encroachment operation should be comprehensive, periodic, resolute and across the board. It must not be a one-time activity. Reports should be compiled pictorially depicting Pre, During and Post Operation activities.</p>	All DCs (01 Month)
6	<p>Housing Sector</p> <p>Prime Minister of Pakistan is personally spearheading the initiative of Housing and Construction Industry and an unprecedented incentive package has been granted by the Government to this sector of the economy. Weekly progress review meetings on this subject are taken by the Prime Minister. The same level of urgency needs to translate right up to the District and Tehsil level. Identification of available & suitable State Land for such Housing Projects and other related Land Acquisition cases need to be expedited and meaningful progress consolidated on top priority basis.</p>	All DCs (01 Month)
7	<p>Land Acquisition in NMDs</p> <p>The Provincial Government has provided all the Legal and Regulatory authority to the District Administrations in the NMDs for land acquisition under the Land Acquisition Act. Right now, there is no reason for the DCs of NMDs to show any slackness on the matter of Land Acquisition. Needless to say, majority of the projects are experiencing slow progress because of the lack of progress on land acquisition.</p>	DCs of NMDs (01 Month)
8	<p>Deforestation & Ban on plastic bags</p> <p>Secretary Forest briefed that Cabinet has imposed complete ban on Plastic Bags. In a month's time the CS Office will start taking progress review on this subject.</p> <ol style="list-style-type: none"> i. DCs to carry out consultations on implication mechanism of the ban on plastic bags, formulate strategies and also strategize for alternatives. ii. DCs to provide support in establishment of Joint Check posts of Forest & Police in forest areas. 	All DCs (01 Month)

ATTESTED

9	<p>Enforcement of Tourism SOPs</p> <p>Secretary Tourism briefed that Tourism Sector has been opened subject to observance of SOPs. All the restaurants and hotels will place sanitizers and masks in their premises. DCs to carry out regular inspection of hotels & restaurants for implementation of SOPs and ensure the following.</p> <ol style="list-style-type: none"> Availability of hand sanitizers in each room of hotel. No eatery to operate without SOPs. Health Deptt to ensure availability of ambulances at tourist spots. 100% testing of hotels & restaurants staff to be ensured. Spot testing of local & tourists to be carried out. 	<p>All DCs Immediate</p>
10	<p>Anti-Encroachment</p> <p>Anti-encroachment operations need to be very focused and surgical. Especially, these operations need to target those encroachments that are the most glaring, difficult and challenging. Meaningful actions need to be taken and it must be seen. Anti-encroachment operation should be comprehensive, periodic, resolute and across the board. It must not be a one-time activity. Reports should be compiled pictorially depicting Pre, During and Post Operation activities.</p>	<p>All DCs (01 Month)</p>
11	<p>Districts Performance Review</p> <ul style="list-style-type: none"> Task Management System The chair appreciated the response of the Deputy Commissioners on the tasks assigned to them from time to time and following decisions were taken: <ol style="list-style-type: none"> All DCs to continue their efforts with regard to cleanliness of rivers, waterways and canals. DCs to implement Ban imposed on use of CNG kits in school vans in light of orders of Supreme Court once the schools are re-opened. Holding of Khull Kachehris DCs were directed to resume holding of Khull Kachehris within SOPs and also engage public representatives. Pakistan Citizens' Portal An overall declining trend was observed in percentage resolution and satisfaction level based on citizens feedback. Complaints escalation was also high in case of some districts. The chair directed Deputy Commissioners to improve percentage Resolution of complaints & citizens satisfaction. Price Control Mechanism & Good Governance Framework Indicators <ol style="list-style-type: none"> Chief Secretary expressed displeasure over non-punching of data regarding GGF and Price control System by DC Offices. DCs to ensure regular updation of prices of edible items in the Price Control System. All DCs were directed to regularly punch data on Indicators in Good Governance Framework. 	<p>All DCs (01 Month)</p>

ATTESTED

	<p>(13)</p> <ul style="list-style-type: none"> Land Revenue Case Management System <p>It was observed that disposal of revenue cases has considerably declined in February to July due to partial closure of revenue courts. The chair directed that Revenue courts have been resumed and all the DCs to focus on timely disposal of revenue cases. Special focus must be given to cases which are pending for more than one year. SMBR to conduct reviews of revenue cases.</p>	<p>(14)</p>
<p>12</p>	<p>Miscellaneous</p> <ul style="list-style-type: none"> i) The Chief Secretary expressed dissatisfaction over reshuffling of Ministerial staff in NMDs and desired that the task may be completed in true spirit and ministerial staff who are working on same assignment for a long period of time or enjoys ill reputation may be reshuffled. ii) Secretary Information to highlight in Print & electronic media the Initiative of making the entire secretariat and govt offices in districts friendly for differently-abled persons. iii) Secy Home to carry out survey of all restaurants in KP through DCs. 	<p>DCs NMDs</p> <p>Secy Info</p> <p>Secy Home All DCs & PMRU</p>

The meeting ended with a vote of thanks to and from the Chair.

ATTESTED

04/21
(14)

Amreure C



NOTIFICATION:

No. Estt./Posting/Transfer/ 3169-74 The Competent Authority is pleased to order the posting/ transfer of the following officials of Deputy Commissioners offices Charsadda and Nowshera with immediate effect in the best public interest:-

S/1	Name & Designation	From	To
1.	Mr. Zahid-Ur-Rehman, Superintendent	Superintendent, office of the Deputy Commissioner Nowshera	Superintendent, Deputy Commissioner office Charsadda
2.	Mr. Arshad Kamal, Superintendent	Superintendent, office of the Deputy Commissioner Charsadda	Superintendent, Deputy Commissioner office Nowshera

With the approval of Competent Authority

No. & Date Even

ATTESTED

Copy forwarded to the:-

- 1. Commissioner, Peshawar Division, Peshawar
- 2. Deputy Commissioner, Charsadda and Nowshera
- 1. District Account Officer, Charsadda and Nowshera
- 2. Officer Concerned

Attested in
Asadullah

[Signature]
Secretary - I,
Board of Revenue

To,

The senior member board of revenue
Khyber pakhtunkhwa, Peshawar.

Through: PROPER CHANNEL

DEPARTMENTAL APPEAL AGAINST THE
PREMATURE TRANSFER ORDER VIDE
NOTIFICATION DATED 04-02-2022 ISSUED BY
THIS OFFICE.

RESPECTED SIR,

With utmost respect it is stated that I was posted as superintendent in the office of deputy commissioner at District charsadda on 18-11-2020 and since then no complaint whatsoever has been recorded against me and performing my duties to the best of my abilities and satisfactions of the superiors, But through notification I was shocked to see my posting to the district

Nowshera having following lacunae:

1. that I was posted in district charsadda in light of provincial government cabinet decision for having more than 02 years at one station while at present I have served in district charsadda only for about 12 month therefore my posting from nowshera is against the cabinet decision.
2. That person replace me is transfer vide notification no 30027 dated 18/11/2020 in district Nowshera, whereas I am transfer from district Khyber to district charsadda (in the same notification) in this respect the transfer order is illegal against the norms of justice and liable to be struck down.
3. That as per posting/transfer policy of provincial government the official having more than 2 year at one station is sin quo nan to transfer but due to transfer notification the same settle policy violated by this office which required to interfere.
4. That without providing the basic facilities like government vehicle, Pol and accommodation it

ATTESTED

18

will be very hard for me to performed duties with zeal and sprit. (Copies of all relevant document for reference)

Keeping in view all the facts narrated lacunae it is therefore requested that the posting order may very very kindly be withdrawn in order to secure the ends of justices please.

With profound regards
Sincerely yours

DATED 04-02-2022

ARSHAD KAMAL
SUPERINTENDENT.

4/2/2022

ATTESTED

Attest
From

Handwritten signature/initials

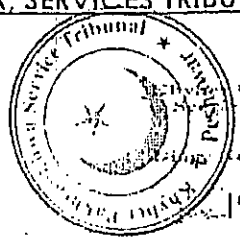
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BEFORE THE KHYBER PAKHTUNKHWA, SERVICES TRIBUNAL,
PESHAWAR

Service Appeal
with Int.Relief No. 63 /2022



57
18-01-2022

SHAHID ALI S/O NIMAT KHAN SUPERINTENDENT DEPUTY
COMMISSINER OFFICE KHYBER DISTRICT KHYBER.

.....Appellant

VERSUS

1. Govt. of Khyber Pakhtunkhwa, Chief Secretary,
Civil Secretariat, Peshawar
2. Govt. of Khyber Pakhtunkhwa, through Secretary
Establishment Department, Civil Secretariat,
Peshawar
3. Senior Member Board of Revenue, Civil Secretariat,
Peshawar

.....Respondents

Filed to-day
18/01/2022
Registrar

SERVICE APPEAL U/S 4 OF THE KPK
SERVICE TRIBUNAL ACT, 1974 AGAINST
THE IMPUGNED NOTIFICATION
NO.EST:II POSTING/TRANSFER/2021
DATED 13-12-2021-WHEREBY THE
APPELLANT HAS BEEN TRANSFER FROM
SUPERINTENDENT OFFICE DEPUTY
COMMISSIONER KHYBER TO
SUPERINTENDET OFFICE DEPUTY
COMMISSIOER MOHMAND WITHOUT
APPLYING ANY RULE AND
REGULATION/ POLICIES.

ATTESTED

REGISTRAR
Khyber Pakhtunkhwa
Services Tribunal
Peshawar


ATTESTED

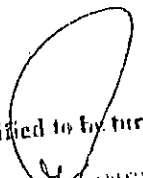
18.01.2022

Counsel for the appellant present. Preliminary arguments have been heard.

Through this Service Appeal, the appellant has invoked the jurisdiction of this Tribunal challenging the order dated 13.12.2021, whereby the appellant has been transferred from the post of Superintendent Office of the Deputy Commissioner, Khyber to a similar post in Office of the Deputy Commissioner Mohmand. The impugned order on its face is meant to have been issued in the best public interest. However, the appellant in his departmental appeal has raised certain objections about the transfer order which if not settled after regular hearing of the appeal, the ground of public interest pressed into service in the impugned order remains arguable. Learned counsel during his arguments has also referred to the letter dated 30.12.2021 of the office of Commissioner Peshawar Division addressed to the respondent No. 3 on the subject of request for cancellation of transfer order of office Superintendent named in the body of the letter i.e. the present appellant. According to the said letter, the services of the appellant in the office of Deputy Commissioner Khyber have been appreciated. It is also a matter for rebuttal of the respondents. Points raised need consideration. The appeal is admitted for full hearing. 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 on 31.01.2022 before S.B.


The appeal is accompanied by an application seeking interim relief for suspension of the operation of impugned notification to the extent of appellant till final disposal of the appeal. Notice of the said application be also given to the respondents. The operation of the impugned order shall remain suspended till disposal of the appeal, if this order is not withdrawn earlier.


Security & Process Fee


Certified to be true copy
E. S. JAINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 19-1-2022
Number of Pages 800
Copying Fee 10/-
Heger 4/-
Total 14/-
Name of Applicant [Signature]
Date of Copy 19-1-2022
Date of Receipt of Copy 19-1-2022


Chairman

ATTESTED


C (20)

Annex 6

BEFORE THE HON'BLE PESHAWAR HIGH COURT, PESHAWAR

WP No. 502 -P/2022
With interim relief



Arshad Kamal, Superintendent, Office of The Deputy Commissioner
Charsadda.

.....Petitioner

VERSUS

1. Govt: of Khyber Pakhtunkhwa, Chief Secretary, Civil Secretariat, Peshawar
2. Govt: of Khyber Pakhtunkhwa, through Secretary Establishment Department, Civil Secretariat, Peshawar
3. Senior Member Board of Revenue, Civil Secretariat, Peshawar.
4. Zahid Ur Rehman, Superintendent Deputy Commissioner Office, Nowshera

.....Respondents

**WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, 1973
WITH ALL AMENDMENTS UP-TO-DATE.**

ATTESTED
EXAMINER
Peshawar High Court

Respectfully Sheweth:

*Precisely, stating the facts of the case out of which the present
appeal arises are as under:*

1. That the petitioner was posted as Superintendent in the office of deputy commissioner Charsadda office vide office order dated 18-11-2020, prior to transfer the petitioner was posted in

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Deputy Registrar
08 FEB 2022

same post in district Khyber and since then no complainant has been recorded against the petitioner. Copy of the ID card is attached as annexure A.

2. That prior to transfer the petitioner in Charsadda the petitioner was posted as superintendent at district Khyber where he spent most of years but after the government Policy in agenda no 12 reshuffling of ministerial staff in NMDs the petitioner has been transfer from District Khyber to District Charsadda on 18-11-2020. More over in the ibid policy agenda/ cabinet decision the criteria for transfer of employee has categorically mention the employee who spent more than 2 year in one station will be transfer. Copy of the policy/ agenda 12 is attached is annexure B.
3. That in district Charsadda the petitioner is working to entire satisfaction to his high ups with quite zeal and sprite being a well experienced and remain cooperate and no complaint whatsoever has been recorded against the petitioner but petitioner was astonished to see the impugned notification for his transfer despite the facts that the petitioner has served about one year therefore posting order is against the cabinet decision as well as against the posting/ transfer policy of the provincial government. Copy of Impugned notification is attached as annexure C.
4. That being aggrieved from the transfer order the petitioner has filed departmental appeal before the respondent no 3 but he

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08 FEB 2022

ATTESTED
EXAMINER
PROVINCIAL HIGH COURT

straight away verbally issued direction to the Deputy Commissioner Charsadda to implementation status of transferee and refused to accept the departmental appeal. Copy of appeal is attached as annexure D.

5. That since the due to the retirement of Chairman Services Tribunal Khyber Pakhtunkhwa, the Services Tribunal is defunct, hence the petitioner is aggrieved from the impugned action and in action /verbal order of respondent No 3 having no other alternate and efficacious remedy, is constrained to invoke extra ordinary jurisdiction of this Honourable Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 and filing this Constitutional Petition, inter alia, on the following grounds:-

G R O U N D S:

- A. That notification for transfer of petitioner is illegal Coram non juice void ab-jinitio and infective upon the right of the petitioner.
- B. That the employee replacing the petitioner already transfer through same order in which the petitioner has been transfer from district Khyber to District charsadda wherein he too spent almost 12 month so the same reason the transfer order is illegal and is liable to be set aside.
- C. That on the same subject this honorable tribunal also granted stay order by suspending the operation of the impugned transfer

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08 FEB 2022

ATTESTED


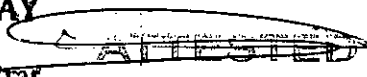
EXAMINER

Peshawar High Court

order in service appeal no 63-2022 titled SHAHID ALI VS GOVT OF KPK AND OTHERS and next date of hearing is fixed as 21-02-2022. Copies of the petition and order are attached as annexure E&F respectively.

- D. That as per government cabinet decision for having more than 2 year at one station is mandatory for any government official as well as the posting/ transfer policy of the provincial government until any complainant what so ever has been recorded but in the instant case respondent has willfully violate the uniform policy which is against the norms of justice.
- E. That due to action and in action of respondent by not follow the procedure the petitioner has been made rolling stone which has depreciated by the apex courts of the country.
- F. That as per dictum of apex courts the policies procedures have been fallow as per prescribe procedure but In the instant case the same been not done which is against the fundamental rights of petitioner guaranteed by the constitution of land.
- G. That the petitioner seeks leave of this Hon'ble Court to raise /argue any additional point.

It is, therefore, most humbly prayed that on acceptance of this writ petition, the notification dated 04-02-2022 for premature transfer may very kindly be declared illegal ab-initio Coram no judice infective upon the right of the petitioner and

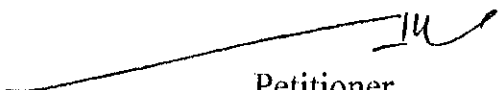

FILED TODAY

Deputy Registrar
08 FEB 2022

EXAMINER
Peshawar High Court

liable to be set aside any other relief which has not been specifically asked may very kindly be granted in favour of petitioner or not to disturb the petitioner from his service till the functioning of KP Service Tribunal.

Any other remedy which deems fit by this Honourable Court may also be granted in favour of petitioner.

Interim relief:-

By way of interim relief, the respondents may very kindly be directed not to take any adverse action against the petitioner nor to disturb the petitioner from his service till functioning of KP Service Tribunal

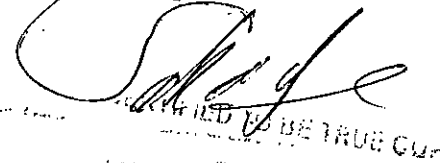

 Petitioner
 Through

ASAD NABI
 Advocate, Peshawar

Dated: 08-02-2022

FILED TODAY

Deputy Registrar

08 FEB 2022

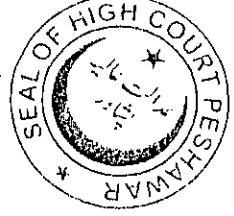

 EXAMINED TO BE TRUE COPY

EXAMINED TO BE TRUE COPY
08 FEB 2022

12 FEB 2022

(25)

JUDGMENT SHEET
PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT



W.P. No.502-P/2022 with IR

Arshad Kamal

Vs.

Government of Khyber Pakhtunkhwa through
Chief Secretary, Peshawar and others

Date of hearing 17.02.2022
Petitioner(s) by: M/s. Asad Nabi and Taif Khan,
Advocates.
Respondent(s) by: Malik Akhtar Hussain Awan, AAG.

JUDGMENT

IJAZ ANWAR, J. This writ petition has been filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, with the following prayer:-

"It is, therefore, most humbly prayed that on acceptance of this writ petition, the Notification dated 04.02.2022 for premature transfer may very kindly be declared illegal, ab-initio, coram-non-judice, ineffective upon the right of the petitioner and liable to be set-aside. Any other relief which has not been specifically asked may very kindly be granted in favour of the petitioner or not to disturb the petitioner from service till the functioning of Khyber Pakhtunkhwa Service Tribunal".

2. In essence, petitioner is aggrieved of the Notification dated 04.02.2022 issued by the Government of Khyber Pakhtunkhwa, Board of Revenue, Revenue & Estate Department, whereby, his services were transferred from Office of the Deputy Commissioner, Charsadda to Deputy

2

ATTESTED
EXAMINER
Peshawar High Court

(26)

that status-quo be maintained till the first hearing before the Khyber Pakhtunkhwa Service Tribunal. However, petitioner is directed to submit Service Appeal before the Khyber Pakhtunkhwa Service Tribunal in this regard, if not already filed.

5. This writ petition is disposed of in the above terms.

Announced
Dt:17.02.2022

JUDGE

JUDGE

(DB) Hon'ble Justice Musarrat Hilali and Hon'ble Mr. Justice Ijaz Anwar

Muhammadullah

23 FEB 2022

95515
 Date of Receipt: 13/2/2022
 No of Pages: 8-9
 Copying fee
 Total: 32/-
 Date of Preparation of copy: 23/2/2022
 Date of Delivery of copy: 23/2/2022
 By: Javed

27
18




OFFICE OF THE DEPUTY COMMISSIONER KHYBER

No. 3672-95 /Supdt.
Dated 26 / 11 /2020

CHARGE RELINQUISH REPORT


In pursuance of the Government of Khyber Pakhtunkhwa Board of Revenue, Revenue & Estate Department Notification No. Estt-III/Posting/Transfer/30027, dated 18.11.2020, I, Arshad Kamal Superintendent (BS-17) hereby relinquish the charge of the post of Superintendent Deputy Commissioner office Khyber today i.e. 26-11-20 (AN)


Arshad Kamal
Superintendent Deputy Commissioner
Office Khyber

No. _____ /Supdt: _____ dated _____ Peshawar the _____ 2020.

Copy forwarded to the:

1. Secretary Board of Revenue w/r to Notification cited above
2. Deputy Commissioner Khyber.
3. Secretary to Commissioner Peshawar Division Peshawar.
4. District Accounts Officer Khyber.


Arshad Kamal
Superintendent Deputy Commissioner
Office Khyber

Arshad Kamal
Asst. Secy

ATTESTED



GOVERNMENT OF KHYBER PAKHTUNKHWA,
BOARD OF REVENUE,
REVENUE & ESTATE DEPARTMENT.

Peshawar dated the 18/11/2020.

NOTIFICATION:

No. Estt:IV/Posting/Transfer/ 30027 The Competent Authority is pleased to order the posting/transfer of the following Superintendents and Private Secretaries in Peshawar, Hazara and D.I.Khan Divisions with immediate effect in the best public interest:-


SN	Name & Designation	From	To
1.	Mr. Ziar Khan, Private Secretary	Private Secretary to Commissioner Peshawar	Private Secretary to Deputy Commissioner Nowshera
2.	Mr. Zahid Gul, Private Secretary	Private Secretary to Deputy Commissioner Nowshera	Private Secretary to Commissioner Peshawar
3.	Mr. Muhsinad Sajjad, Private Secretary	Private Secretary to Commissioner D.I.Khan	Private Secretary to Deputy Commissioner D.I.Khan
4.	Syed Illikhar Hussain Shah, Private Secretary	Private Secretary to Deputy Commissioner D.I.Khan	Private Secretary to Commissioner D.I.Khan
5.	Mr. Abdul Qayum, Private Secretary	Private Secretary to Deputy Commissioner Kolai Palas	Private Secretary to Deputy Commissioner Kohistan Lower
6.	Mr. Jehanzeb, Private Secretary	Private Secretary to Commissioner Hazara Division	Private Secretary to Deputy Commissioner Kolai Palas
7.	Mr. Qazi Saeed, Private Secretary	Private Secretary to Deputy Commissioner Torghar	Private Secretary to Commissioner Hazara
8.	Mr. Zahid ur Rehman, Superintendent	Superintendent Deputy Commissioner office Charsadda	Superintendent office of the Deputy Commissioner Nowshera
9.	Mr. Shahid Ali, Superintendent	Superintendent Deputy Commissioner office Nowshera	Superintendent office of the Deputy Commissioner Khyber
10.	Mr. Arshad Kamal, Superintendent	Superintendent Deputy Commissioner office Khyber	Superintendent office of the Deputy Commissioner Charsadda
11.	Mr. Muhammad Shafiq Ayyan, Superintendent	Superintendent Deputy Commissioner office D.I.Khan	Superintendent office of the Deputy Commissioner Tank
12.	Mr. Zain ul Abidan, Superintendent	Superintendent Deputy Commissioner office Tank	Superintendent office of the Deputy Commissioner South Waziristan Tribal District
13.	Mr. Abdul Hameed, Superintendent	Superintendent Deputy Commissioner office SWTD	Superintendent office of the Deputy Commissioner D.I.Khan
14.	Mr. Fazal Malik, Superintendent	Superintendent Deputy Commissioner office Kolai Palas	Superintendent office of the Commissioner Hazara
15.	Mr. Naseem Ahmed, Superintendent	Superintendent Deputy Commissioner office Torghar	Superintendent office of the Deputy Commissioner Kolai Palas
16.	Mr. Bakht Alam, Superintendent	Superintendent Commissioner office Hazara	Superintendent office of the Deputy Commissioner Kohistan Lower
17.	Mr. Habibullah, Superintendent	Superintendent Deputy Commissioner office Kohistan Lower	Superintendent office of the Deputy Commissioner Kohistan Upper

ATTESTED

By order of

وکالت نامہ

بعدالت پشاور ہائی کورٹ پشاور

	S No	6206
	BC No	1342-32
	Sign	<i>[Signature]</i>

مورخہ
 مقدمہ
 دعویٰ
 جرم

17301-6419166-1
 03453122/6
 بنجاب گورنمنٹ ہونڈہ
 بنام

باعث تحرے آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطہ پیروی و جواب دہی وکل کاروائی، متعلقہ
 آن مقام کیلئے استدعیٰ کیلئے

مقرر کر کے اقرار کیا جاتا ہے۔ کہ وکیل موصوف کو مقدمہ کی کل کاروائی کا مکمل اختیار حاصل ہوگا۔
 نیز وکیل صاحب کو عرضی دعویٰ داخل کرنے، جواب دعویٰ، اپیل، نظر ثانی کا بھی اختیار حاصل ہو
 گا نیز وکیل صاحب بصورت ڈگری برخلاف من اختیار دہندہ اپیل، نگرانی، نظر ثانی از عدالت ابتداء
 تا عدالت انتہا یعنی سپریم کورٹ آف پاکستان دائر کر سکتا ہے وکیل موصوف بصورت عدم پیروی
 کاروائی یکطرفہ یا ڈگری یکطرفہ کیخلاف درخواست دائر کر سکتا ہے اور وکیل موصوف میری جانب
 سے مقدمہ میں بصورت ڈگری چیک یا نقد روپیہ کی شکل میں وصولی کر سکے گا اور مزید یہ کہ وکیل
 موصوف مقدمہ متذکرہ کی کل یا جزوی کاروائی کیلئے اپنی بجائے دیگر وکیل بھی اپنے ساتھ مقرر کر سکتا
 ہے جس کو بھی وہ جملہ اختیار حاصل ہونگے جو کہ وکیل موصوف کو حاصل ہیں مجھے اس صورت میں
 تمام ساختہ پرداختہ منظور و قبول ہوگا لہذا میں نے وکالت نامہ ہذا تحریر کر کے اس پر دستخط/ نشان
 انگشت ثبت کر دیا ہے تاکہ سند رہے۔

المرقوم 25 ماہ 2022ء

العدو گواہ العدو



کے لئے منظور ہے۔

Accepted

Asad *[Signature]*

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

PROFORMA FOR EARLY HEARING

FORM 'A'

To be filled by the Counsel/Applicant

Case Number	665/2022			
Case Title	Arshad Kamal - vs - Govt of KPK and others			
Date of Institution	9/5 2022			
Bench	SB <input checked="" type="checkbox"/>		DB	
Case Status	Fresh		Pending <input checked="" type="checkbox"/>	
Stage	Notice <input checked="" type="checkbox"/>		Reply	Argument
Urgency to clearly stated.	Matter Pertain to Pse Mahkome Transfer ↑ During urgent Transfer inquiry application is submitted been missed now due to Pse Mahkome Transfer needed			
Nature of the relief sought.	Suspension of impugned resolution,			
Next date of hearing	19-09-2022			
Alleged Target Date	19-09-2022			
Counsel for	Petitioner <input checked="" type="checkbox"/>		Respondent	In person

Signature of counsel/party

[Handwritten Signature]
 Sad
 Arshad

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

PROFORMA FOR EARLY HEARING

FORM 'B'

Inst#

Early Hearing _____ -p/20 _____

In case No. 665 -p/20 22

AsShad Kamal vs Govt of KPK and others

Presented by ASAD NABE ADV on behalf of Petitioner. Entered in the relevant register.

Put up alongwith main case 665/2022

REGISTRAR

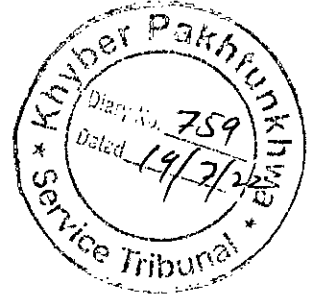
Last date fixed	<u>18/07/2022</u>
Reason(S) for last adjournment, if any by the Branch Incharge.	<u>NOEC</u>
Date(s) fixed in the similar matter by the Branch Incharge	<u>NIL</u>
Available dates Readers/Assistant Registrar branch	<u>19/9/2022</u>

Assistant Registrar

REGISTRAR

BEFORE THE SERVICE TRIBUNAL KPK, PESHAWAR

CM2022
IN
Service appeal 665./2022



ARSHAD KAMAL

.....Applicants

VS

GOVT OF KPK AND OTHERS

RESPONDENTS

APPLICATION FOR REQUISITION
&

**APPLICATION FOR FIXATION OF ABOVE TITLED
APPEAL IS TODAY AS THE MATTER IS URGENT
AND RESPONDENT DEPARTMENT IS GOING TO
DISTURB THE APPLICANT FROM HIS RECENT
POSITION.**

Respectfully Sheweth!

1. That the above titled Appeal is pending before this Hon'ble Court in which next date of hearing is fixed as ¹⁹29/9/2022.
2. That previously the Applicant moved a appeal before this honorable tribunal but inadvertently application for suspension of impugned notification not been filed during the course of arguments this honorable tribunal ask from applicant for application for injunction the applicant soon as per directive of this tribunal filed the application but due to some reason this honorable court only notice the respondent for application. Copy is already in main file for perusal.
3. That the matter is urgent and needs for fixation early as the respondents are going to distrurb the applicat from his recent charge.

4. That prima facie case exist infavour of applicat balalnce of convinance also lies and if this honorabe tribunal did not fixed as soon as early then the main appeal of the applicant become infractious and applicant will suffer irreparable lose which can not be condoned in shape of money etc
5. That the main subject before this honorable tribunal with regard to prematchure transfer of applicant and in order to safe administration of justice the appeal will be heard as soon as possible to the best intrest f justice.

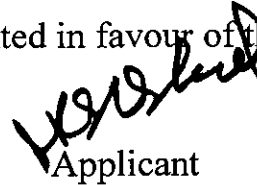
It is, therefore, humbly prayed that on the acceptance of this application, the above mention appeal may very kindly be fixed as soon as raely to the best intrest of justice . Any other relief may also be granted in favour of the applicant which has not been sought.

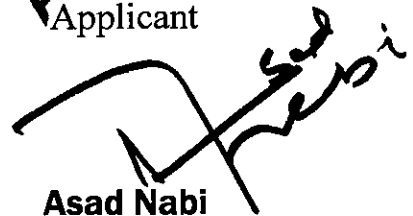
Date:- 19-07-2022

Through:

That all the contents of the above application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

Deponent.


Applicant


Asad Nabi
Advocates High Court
Peshawar
0345-9122165



4. *That the balance of convenience also lies in favour of the petitioner.*
5. *That if the impugned notification is not suspended, than the petitioner would suffer irreparable loss.*
6. *That the facts and grounds of the Service appeal may kindly be read as an integral part of this application.*

It is, therefore, respectfully prayed that on acceptance of this application, the impugned notification may kindly be suspended, till the final decision of the case.

Dated:- 18/07/2022

[Signature]
Applicant/Appellant

Through:-

[Signature]
Asad Nabi
Advocate, Peshawar.

AFFIDAVIT

I, Arshad Kamal (the appellant), do hereby solemnly affirm and declare on oath that the contents of this application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.



DEPONENT