

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 7734/2021

Date of Institution ... 08.11.2021

Date of Decision ... 19.01.2022

Noor Elahi Khan, Deputy District Attorney, Peshawar
... (Appellant)

VERSUS

Chief Secretary, Government of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar
and others. ... (Respondents)

Appellant ... In Person

Muhammad Adeel Butt,
Additional Advocate General ... For respondents

AHMAD SULTAN TAREEN ... **CHAIRMAN**
ATIQ-UR-REHMAN WAZIR ... **MEMBER (EXECUTIVE)**

JUDGMENT

ATIQ-UR-REHMAN WAZIR MEMBER (E):-

Brief facts of the

case are that the appellant while serving as Deputy District Attorney (DDA) BPS-18 was transferred from Peshawar against the post of DDA Kurram in his Own Pay & Scale vide order dated 15-10-2021. Feeling aggrieved, the appellant filed departmental appeal, which was not responded, hence the instant service appeal with prayers that the impugned order dated 15-10-2021 may be set aside and the respondents may be directed not to take any adverse action against the appellant.

02. Appellant has contended that the impugned transfer order is based on political pressures being exerted by respondent No. 3, hence is illegal and is liable to be set aside; that the impugned order is based on malafide, as one post of

DDA was already vacant in Peshawar, but respondent No. 3 was posted against the post of the appellant; that respondent No. 3 has recently been transferred from Peshawar to Kohat and was again re-transferred in the impugned transfer order; that the appellant has a genuine and compelling reason that his mother is seriously ill and lying on bed since long and no one is there to take care of him; that the impugned order has not been issued in public interest; that the appellant has been pre-maturely transferred in violation of posting/transfer policy of the provincial government; that the impugned transfer order is against the basic norms of natural justice, which is liable to be set aside; that the appellant has been posted against the post of DDA BPS-19 in his own pay & scale, which is violation of the august Supreme Court of Pakistan judgment reported as 2014 SCMR 1184.

03. Learned Additional Advocate General for the respondents has contended the appellant has been transferred in the interest of public service on administrative grounds, as there was a dire need of Law Officer in District Kurram, hence keeping in view exigency of service coupled with administrative needs, the appellant was posted in Kurram as District Attorney; that the appellant has been working in Peshawar since long against various posts in different times, hence his transfer outside Peshawar was not made on political considerations; that the transfer is in accordance with law, rules and posting/transfer policy of the provincial government; that under section 10 of the Civil Servants Act, 1973, a civil servant can be posted anywhere within province at the discretion of the competent authority.

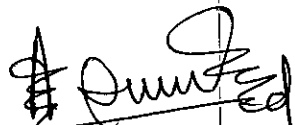
04. We have heard both the parties and have perused the record.


05. The appellant having been aggrieved from his transfer made by impugned order submitted his departmental appeal to respondent No 1, which was not responded with in the statutory time period, hence the appellant filed the instant service appeal. We have observed that transfer of the appellant is pre-mature as

he has not completed his tenure against the post. Moreover we have also observed that transfer of the appellant and adjustment of respondent No. 3 against his post smacks malafide on part of the respondents as in presence of a vacant post, which was also requisitioned by District Attorney vide his letter dated 17-09-2021. The impugned order is shown to have been issued in the public interest but learned counsel for the respondents, when confronted with the question as to what public interest was involved in the impugned transfer order could not satisfy this Tribunal. Clause (i) of the posting/transfer policy states that all posting/transfers shall be made strictly in public interest and shall not be abused/misused to victimize the government servants. The situation as explained above shows that the impugned transfer order was not made in the public interest, rather was made to adjust respondent No 3. Contention of the appellant to the effect that his mother is seriously ill and nobody except him is available to take care of her also hold force and respondents were required to take a sympathetic view of the situation. The appellant agreed to the extent that he is not interested in that particular post, but he may be retained in Peshawar against any post for the sake of look after of his ailing mother.

06. In view of the foregoing discussion, the instant appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
19.01.2022


(AHMAD SULTAN TAREEN)
CHAIRMAN


(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

ORDER
19.01.2022

Appellant in person present. Mr. Muhammad Adeel Butt, Additional Advocate General for respondent present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the instant appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
19.01.2022



(AHMAD SULTAN TAREEN)
CHAIRMAN

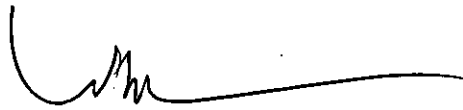


(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

11.01.2022

Counsel for the appellant and Mr. Muhammad Adeel Butt, Addl. AG alongwith Naib Wali, Asstt. Law Officer for the official respondents present.

Former requested for adjournment in order to further prepare the brief. Request accorded. To come up for arguments on 18.01.2022 before the D.B. The operation of impugned notification shall remain suspended till date fixed.

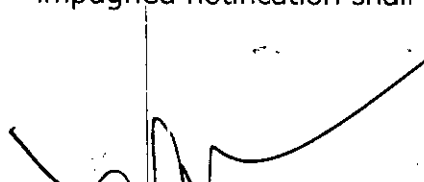

(Atiq-ur-Rehman Wazir)
Member(E)


Chairman

18.01.2022

Appellant in person present. Mr. Muhammad Adeel Butt, Additional Advocate General alongwith Naib Wali, Asst. Law Officer for respondents present.

Due to paucity of time, arguments could not be heard. To come up for arguments before the D.B on 19.01.2022. The operation of the impugned notification shall remain suspended till date fixed.


(Atiq-ur-Rehman Wazir)
Member (E)

Chairman

30.11.2021 Counsel for the appellant present. Mr. Noor Zaman Khattak, District Attorney alongwith Mr. Naid Wali, Assistant Law Officer for respondents present.

Learned District Attorney stated at the bar that reply/parawise comments are being in the process for approval and the same will be submitted in the court on the next date. Request is acceded. To come up for written reply/comments on 23.12.2021 before S.B. The operation of impugned order is suspended till date fixed.


(MIAN MUHAMMAD)
MEMBER (E)

23.12.2021 Appellant in person and Mr. Muhammad Adeel Butt, Addl. AG for official respondents present. None present on behalf of private respondent No. 4 hence proceeded against ex-parte.

Representative of the official respondents has furnished reply/comments both on main appeal as well as stay application. Placed on file. To come up for arguments on 10.01.2022 before the D.B. The operation of the impugned notification shall remain suspended till date fixed.


Chairman

S.A No. 7734/2021

10.11.2021

Counsel for the appellant present. Preliminary arguments have been heard. The Memorandum of Appeal alongwith copies of record annexed therewith have been perused.

The appellant having been aggrieved from his transfer made by impugned order submitted his departmental appeal to the next higher authority i.e. respondent No. 1 which so far has not been responded. Among other grounds in the departmental appeal, it has been submitted that the transfer of the appellant is premature as far as transfer/posting policy is concerned. Moreover, the transfer of the appellant is politically motivated when adjustment of other transferee in the impugned order has been made against the post of the appellant at Peshawar despite the fact that another post was vacant. If there was any dire need for transfer of Mr. Zubair Ahmad from Kohat to Peshawar, he could have been adjusted against vacant post; particularly according to the copy of the letter dated 17.09.2021 annexed with the appeal, the District Attorney made a request to the Director General Law and Human Rights Department Khyber Pakhtunkhwa, Peshawar for transfer of some law officers to the vacant posts. The impugned transfer order is shown to has been issued in the interest of public service but in view of attending circumstances as discussed before, the point of public interest is arguable. Let the respondents be heard in regular proceedings. This appeal is admitted for regular hearing. The appellant is directed to

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Appellant Deposited
Security Process Fee

[Handwritten signature]
10/11/21

deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 30.11.2021 before the D.B.

An application has been filed alongwith Memorandum of Appeal seeking suspension of the impugned order dated 15.10.2021. Notice of the application be also given to the respondents. The operation of impugned order is suspended till date fixed.




Chairman

Form-A
FORM OF ORDER SHEET

Court of _____

Case No.- _____

7734 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	08/11/2021	<p>The appeal of Mr. Noor Elahi Khan presented today by Mr. Syed Abdul Fayyaz 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-		<p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put up there on <u>10-11-2021</u></p> <p style="text-align: right;"> CHAIRMAN</p>

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

CHECK LIST

Case Title: Noor E Lahi Khan v/s Govt of KPK

S#	CONTENTS	YES	NO
1	This Appeal has been presented by: <u>Syed Abdul Fayaz</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?	x	✓
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: Syed Abdul Fayaz

Signature: _____

Dated: 27-10-2021

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

S. A. No. 7734 /2021

Noor Elahi Khan

..... Appellant

Versus

Chief Secretary and others

..... Respondents

INDEX

S#	Description of the Documents	Annex	Pages
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4.	Copy of the Departmental Appeal	"B"	9-12
5.	Copy of the letter	"C"	13
6.	<i>Wakalat Nama</i>		14

Through

Appellant *17-7-21*
(Noor Elahi Khan)
Dy. District Attorney Peshawar

Syed Abdul Fayaz
Syed Abdul Fayaz
Advocate Supreme Court.

Rafiq Mohmand
Rafiq Mohmand

Tariq Kamal
Tariq Kamal

Manzoor Qadir
Manzoor Qadir

Shah Faisal Daudzai
Shah Faisal Daudzai
Advocates Peshawar

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 7860

Dated 08/11/2021

S. A. No. 7734 /2021

Noor Elahi Khan, Dy. District Attorney, Peshawar..... Appellant

Versus

1. Chief Secretary, Govt. of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
2. Secretary Law, Govt. of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
3. Mr. Zubair Muhammad, Dy. District Attorney, District Kohat/Peshawar.

..... Respondents

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 15.10.2021

VIDE WHICH THE RESPONDENT NO. 2 HAS TRANSFERRED THE APPELLANT FROM THE POST OF DEPUTY DISTRICT ATTORNEY PESHAWAR (BPS-18) TO DISTRICT ATTORNEY KURRAM (BPS-19) IN HIS OWN PAY SCALE.

Filed to-day
Registrar
08/11/2021

Respectfully Sheweth:

1. That the appellant has been transferred vide order dated 15.10.2021 from DDA Peshawar to District Kurram in his own pay scale as a District Attorney Kurram. Copy of Transfer Order dated 15.10.2021 is attached as Annexure "A".
2. That the appellant preferred Departmental Appeal against the impugned order to worthy Chief Secretary (Respondent No. 1) but to no avail. Copy of the Departmental Appeal is attached as Annexure "B".
3. That the appellant feeling aggrieved from the above impugned order, the instant service appeal before this Hon'ble Tribunal, on the following grounds:

GROUNDS:

- A. That the petitioner has been transferred vide order dated 15.10.2021 from the post of Dy District Attorney Peshawar (BPS-18) to District Attorney Kurram (BPS-19) in his own pay scale.
- B. That the impugned order dated 15.10.2021 is totally based on political pressures / influence, hence liable to be set aside and recalled.
- C. That the impugned order is based on malafide intentions. In fact, one post of the Dy. District Attorney is already lying vacant in the office of District Attorney Peshawar but

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despite of fact, the respondent NO. 3 has been placed on the appellant's post.

- D. That the respondent No. 3 has recently been transferred from Peshawar to District Attorney office Kohat 9 months ago.
- E. That the genuine problem of the appellant is that his mother is an old aged and lying on bed since 6 months in unconscious conditions and there is no one to lookafter her except the appellant.
- F. That the interest of public service has not been explained in the impugned order, hence the impugned order dated 15.10.2021 is liable to be set aside and recalled.
- G. That the petitioner has been prematurely transferred in violation of the posting and transfer policy of the provincial government.
- H. That the impugned transfer order is against the basic norms of justice which required to be set aside.
- I. That impugned order is the result of political manipulation.
- J. That the District Attorney Peshawar has already requested to the competent authority through letter No. Cor-3/DA/Pesh/564-65 dared 17.09.2021 to fulfill the vacant

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post which is lying vacant form the last one year. (Copy of the letter is attached as Annexure "C").

K. That the appellant has been posted against the post of District attorney BPS-19 in his own pay scale which is violation of the Supreme Court judgment reported in 2014 SCMR Page 1184 which amounts to contempt of Supreme Court judgment.

L. That the order dated 15.10.2021 is illogical and based on surmises.

M. That any other ground in respect of the instant appeal will be raised at the time of arguments with permission of the worthy Tribunal.

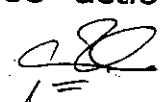
PRAYERS:


It is, therefore, most humbly submitted that on acceptance of instant Service Appeal, the impugned order dated 15.10.2021 may kindly be set aside and recalled and the concern department may also be directed not to take any adverse action against the appellant.

Through

Verification

That the contents of this appeal is True and correct to the Best of my knowledge and nothing has been concealed from this Honorable Court

Appellant 
(Noor Elahi Khan)
Dy. District Attorney Peshawar


Syed Abdul Fayaz
Advocate Supreme Court.


Rafiq Mohmand


Tariq Kamal


Manzoor Qadir


Shah Faisal Daudzai
Advocates Peshawar

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

CM No. _____/2021

In

S. A. No. _____/2021

Noor Elahi Khan

..... Appellant

Versus

Chief Secretary and others

..... Respondents

APPLICATION FOR SUSPENSION OF IMPUGNED
ORDER DATED 15.10.2021

Respectfully Sheweth:

1. That the appeal titled above is pending before this Hon'ble Court which is fixed for today.
2. That the respondents in continuation of order dated 15.10.2021, has issued order dated 15.10.2021 which is against the spirit of law and principle of public policy. Copy of order is annexed.
3. That the appellant /petitioner has a good prima facie case and arguable case and is sanguine about his success.
4. That the balance of convenience is also lies in favour of the appellant/petitioner.

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SCMR Page 1184 which amounts to contempt of Supreme Court judgment.

K. That the order dated 15.10.2021 is illogical and based on surmises.


L. That any other ground in respect of the instant appeal will be raised at the time of arguments with permission of the worthy Tribunal.

PRAYERS:

It is, therefore, most humbly submitted that on acceptance of instant Service Appeal, the impugned order dated 15.10.2021 may kindly be set aside and recalled and the concern department may also be directed not to take any adverse action against the appellant.

Appellant 
(Noor Elahi Khan)
Dy. District Attorney Peshawar

Through


Syed Abdul Fayaz
Advocate Supreme Court.


Rafiq Mohmand


Tariq Kamal


Manzoor Qadir


Shah Faisal Daudzai
Advocates Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

CM No. _____/2021

In

S. A. No. _____/2021

Noor Elahi Khan

..... Applicant/Appellant

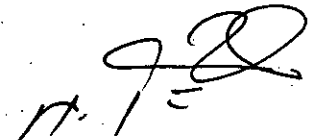
Versus

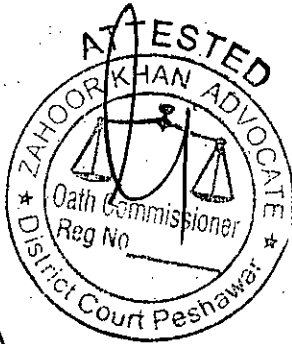
Chief Secretary and others

..... Respondents

AFFIDAVIT

I, **Noor Elahi Khan, Dy. District Attorney, Peshawar**, do hereby solemnly affirm and declare on Oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.


Deponent



Noor Elahi Khan
Dy. District Attorney
Peshawar



(8)

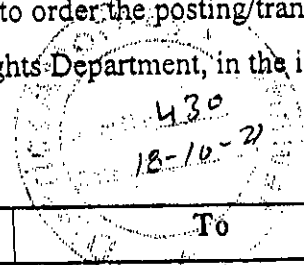
**GOVERNMENT OF KHYBER PAKHTUNKHWA
LAW, PARLIAMENTARY AFFAIRS & HUMAN RIGHTS
DEPARTMENT**

Dated: Peshawar the 15th October, 2021

NOTIFICATION

/ 3506-17

SO(G)LD/15-11/2021/: The Competent Authority is pleased to order the posting/transfer of the following officers of Law, Parliamentary Affairs & Human Rights Department, in the interest of public service, with immediate effect:-



S.#	Name & Designation	From	To
1.	Mr. Noor Elahi, Deputy District Attorney (BS-18)	Deputy District Attorney Peshawar	District Attorney Kurram (OPS) against the vacant post
2.	Mr. Zubair Muhammad, Deputy District Attorney (BS-18)	Deputy District Attorney Kohat	Deputy District Attorney Peshawar vice serial No.01.

2. Consequent upon the above, Mustafa Kamal, District Attorney, Hangu (BS-19) is relieved of the additional charge of District Attorney Kurram.

Secretary to Govt: of Khyber Pakhtunkhwa
Law, Parliamentary Affairs & Human
Rights Department

Endst: No. & Date Even:

Copy forwarded to the:-

1. Registrar Peshawar High Court, Peshawar.
2. Director General, Law and Human Rights Khyber Pakhtunkhwa.
3. Deputy Commissioner, Peshawar.
4. Deputy Commissioner, Merged District Kurram.
5. District Attorney Offices Hangu, Kurram & Peshawar.
6. District Account Officers Kohat, Kurram & Peshawar.
7. PS to Minister Law, Khyber Pakhtunkhwa.
8. PS to Secretary Law, Parliamentary Affairs and Human Rights Department.
9. PA to Deputy Secretary (Admn), Law Department.
10. Officers Concerned.

Handwritten signature and date 15/10/21

Aurangzeb
(AURANGZEB) 15/10/2021
Section Officer (General)

Handwritten signature
NOOR ELAHI
Deputy District Attorney Peshawar
Law Parliamentary Affairs &
Human Rights Department

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OFFICE OF THE DISTRICT ATTORNEY
GOVERNMENT OF THE KHYBER PAKHTUNKHWA.
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT PESHAWAR.
2ND FLOOR TASNEEM PLAZA NEAR JAN'S BAKERS' SADDER ROAD PESHAWAR PHONE &
FAX:091-9210400

No. COR-3/DA/Pesh/2021/660-63
Dated Peshawar the 26/10/2021

To

The Director General,
Law & Human Rights Department,
Government of Khyber Pakhtunkhwa .

SUBJECT: DEPARTMENTAL REPRESENTATION AGAINST THE ORDER
DATED 15-10-2021.

R/Sir,

Reference to the subject noted above and find enclose herewith letter No.COR-3/DA/Pesh/2021/658, dated 26/10/2021 of Deputy District Attorney, Noor Elahi office of the undersigned which is self-explanatory & is submitted for further necessary action, please.

WASIMA JAMIL
District Attorney Peshawar

Copy forwarded to:-

1. P.S to Chief Secretary, Khyber Pukhtunkhwa.
2. P.S to Secretary Law, Parliamentary Affairs & Human Rights Khyber Pakhtunkhwa.

NOOR ELAHI
Deputy District Attorney Peshawar
Law Parliamentary Affairs &
Human Right Department

District Attorney Peshawar

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OFFICE OF THE DISTRICT ATTORNEY
GOVERNMENT OF THE KHYBER PAKHTUNKHWA.
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT PESHAWAR.
2ND FLOOR TASNEEM PLAZA NEAR JAN'S BAKERS' SADDER ROAD PESHAWAR PHONE &
FAX:091-9210400

No. COR-3/DA/Pesh/2021/ 660 - 63

Dated Peshawar the 26/10/2021

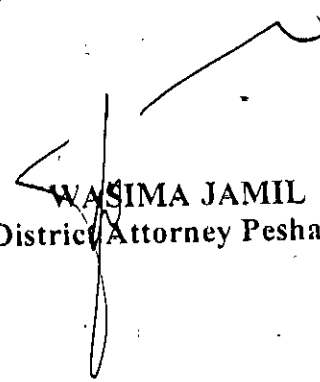
To

The Director General,
Law & Human Rights Department,
Government of Khyber Pakhtunkhwa .

SUBJECT: DEPARTMENTAL REPRESENTATION AGAINST THE ORDER
DATED 15-10-2021.

R/Sir,

Reference to the subject noted above and find enclose herewith letter No.COR-3/DA/Pesh/2021/658, dated 26/10/2021 of Deputy District Attorney, Noor Elahi office of the undersigned which is self-explanatory & is submitted for further necessary action, please.


WASIMA JAMIL
District Attorney Peshawar

Copy forwarded to:-

1. P.S to Chief Secretary, Khyber Pukhtunkhwa.
2. P.S to Secretary Law, Parliamentary Affairs & Human Rights Khyber Pakhtunkhwa.

District Attorney Peshawar



(11)

**OFFICE OF THE DISTRICT ATTORNEY
GOVERNMENT OF THE KHYBER PAKHTUNKHWA.
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT PESHAWAR.**
2ND FLOOR, TASNEEM PLAZA NEAR JAN'S BAKERS' SADDER ROAD PESHAWAR. PHONE &
FAX: 091-9210400

No. COR-3/DA/Pesh/2021/657

Dated Peshawar the 26/10/2021

To

The Chief Secretary,
Government of Khyber Pukhtunkhwa.

Memo:- Through Proper Channel

Subject:- **DEPARTMENTAL REPRESENTATION AGAINST THE ORDER
DATED 15-10-2021.**

Respected Sir,

The petitioner submits as under:-

1. That the petitioner has been transferred vide order dated 15-10-2021 from the post of Deputy District Attorney BPS-18 Peshawar to District Attorney Kurram in his own pay scale BPS-19. (Copy Annexed)
2. That the impugned order is liable to be set aside/ recalled on the following grounds.
 - (a) That the impugned order is based on mala-fide.
 - (b) That the interest of public service has not been explained in the impugned order.
 - (c) That the petitioner has been pre maturely transfer without complying the posting transferred policy of the provincial government.
 - (d) That the impugned Transfer order is against the basic norms of justice.
 - (e) That the impugned order is the result of political manipulation and pressure.
 - (f) That the petitioner has been posted against the post of District Attorney BPS-19 in his own pay scale which is the violation of the Supreme Court judgment reported in 2014 SCMR page 1184. Which amount to contempt of Supreme Court Judgments.
 - (g) That the order dated 15-10-2021 is illegal and based on illogical Conclusion.
 - (h) That impugned order is totally based on political pressure while one post of Deputy District Attorney BPS-18 is vacant in District Attorney Peshawar.
 - (i) That the District Attorney Peshawar has already requested to the competent authority through letter No. Cor-3/DA/Pesh/564-65, dated 17-09-2021 to fulfill the vacant post which is lying vacant from the last one year. (Copy of letter is attached)

(j) That the mother of the petitioner is an old age and remains ill and the petitioner is only one to look after her. If the impugned order has not recalled it will have an adverse effect upon her health.

Prays:-

It is most humbly submitted that on acceptance of this Departmental appeal. The impugned order dated 15-10-2021 may please be set aside and recalled.

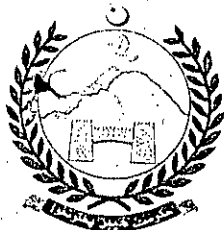
Petitioner

[Handwritten Signature]
26/10/21
NOOR ELAHI

Deputy District Attorney Peshawar

[Handwritten Signature]
NOOR ELAHI
Deputy District Attorney Peshawar
Law, Parliamentary Affairs &
Human Right Department

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**OFFICE OF THE DISTRICT ATTORNEY PESHAWAR
GOVERNMENT OF THE KHYBER PAKHTUNKHWA.
LAW, PARLIAMENTARY AFFAIRS AND
HUMAN RIGHTS DEPARTMENT PESHAWAR.
2ND FLOOR TASNEEM PLAZA NEAR JAN'S BAKERS' SADDER ROAD PESHAWAR PHONE &
FAX:091-9210400**

No. CoR-3/DA/Pesh/574-65
Dated Peshawar the 17-08-2021

To

The Director General,
Law & Human Rights,
Government of Khyber Pakhtunkhwa,

SUBJECT:- REQUEST FOR POSTING/ TRANSFER OF DEPUTY DISTRICT ATTORNEY (BPS-18) AGAINST THE VACANT POST.

Respected Sir,

Reference to the subject noted above it is stated that one post of Deputy District Attorney (BPS-18) is lying vacant from last 10 months in the office of undersigned. Due to this reason office is extremely over-burdened with hundreds of serious nature and chronic cases.

Keeping in view of above it is requested that any Law officer may kindly be Transferred/ Posted to the office of undersigned for smooth running of court work.

**WASIMA JAMIL
DISTRICT ATTORNEY,
PESHAWAR.**




Endst. No. & Date Even:-

Copy forwarded to for information and necessary action please:

Solicitor, Law & Human Rights, Khyber Pakhtunkhwa.

NOOR ELAHI
Deputy District Attorney Peshawar
Law Parliamentary Affairs &
Human Right Department

**DISTRICT ATTORNEY,
PESHAWAR.**

قیمت 50 روپے	103019			
ایڈریس:		پشاور بار ایسوسی ایشن، خیبر پختونخواہ		
بار کونسل/ ایسوسی ایشن نمبر:				
رابطہ نمبر:				

بعدالت جناب: سروس ٹریبونل سید

	دعویٰ: لوزر الٹی ڈی ڈی سید
	علت نمبر: 103019
	مورخہ:
	جرم:
تھانہ:	
باعت تحریر آگہ	

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کاروائی متعلقہ
 آن مقام سید عبدالکلیہ محمد رضا کی دستخطوں سے کو وکیل مقرر
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو
 راضی نامہ کر مئے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق
 زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوخی، نیز
 دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی
 کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے لے کر اختیار ہوگا اور صاحب
 مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پر داخست منظور و قبول ہوگا
 دوران مقدمہ میں جو خرچہ ہر جانب التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے
 باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

الرقوم: 


مقام سید عبدالکلیہ محمد رضا کی دستخطوں سے لے لیے منظور ہے۔

نوٹ: اس وکالت نامہ کی فوٹو کاپی ناقابل قبول ہوگی۔

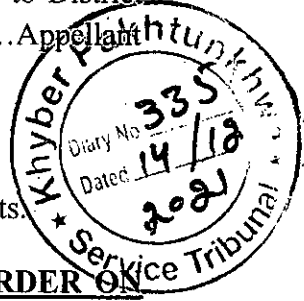
IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.7734/2021

Mr. Noor Elahi Khan, Deputy District Attorney (BPS-18), Peshawar under transfer to District Attorney District Kurram.Appellant

VERSUS

Government of Khyber Pakhtunkhwa through the Chief Secretary, Govt. of Khyber Pakhtunkhwa, Peshawar & others.Respondents.



JOINT REPLY TO APPLICATION FOR SUSPENSION OF IMPUGNED ORDER ON BEHALF OF RESPONDENTS NO.01 & 02.

Respectfully Sheweth.

PRELIMINARY OBJECTIONS:

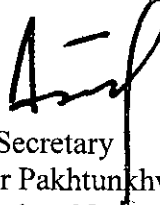
1. That no cause of action or locus standi lies with appellant/petitioner for filing of application, therefore application may be dismissed.
2. That the instant application is not maintainable in its present form.
3. That the present application is not maintainable due to non-joinder and mis-joinder of necessary parties.
4. That this Hon'ble Tribunal has got no jurisdiction to entertain the instant application.
5. That the appellant is estopped by his own conduct.

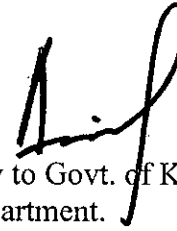
On facts

1. Para-01 of the application pertains to record of the Service Tribunal.
2. Incorrect, hence, denied.
3. Incorrect, hence denied. None of the ingredients for temporary injunction lies in favour of the applicant. By the impugned notification of transfer none of the right of the applicant has been violated. Neither prima facie case exist in his favour nor balance of convenience lies in his favour of appellant. Moreover, no irreparable loss occurred to the applicant due to impugned notification.
4. Incorrect, hence denied, as explained in Para-03 above.
- K. that the order dated 15.10.2021 is according to law & rules.
- L. that the respondents seek permission to agitate further points at the time of arguments.

Prayer:

It is therefore, most humbly prayed that on acceptance of this parawise reply, the instant application for suspension being devoid of legal footings and merits may graciously be dismissed with cost.


Chief Secretary
Khyber Pakhtunkhwa
Respondent No.01


Secretary to Govt. of Khyber Pakhtunkhwa,
Law Department.
Respondent No.02

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.7734/2021

Mr. Noor Elahi Khan, Deputy District Attorney (BPS-18), Peshawar under transfer to District Attorney District Kurram.

.....Appellant

VERSUS

Government of Khyber Pakhtunkhwa through the Chief Secretary, Govt. of Khyber Pakhtunkhwa, Peshawar & others.

.....Respondents.

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO.01 & 02

Respectfully Sheweth.

PRELIMINARY OBJECTIONS:

1. That no cause of action or locus standi lies with appellant for filing of the Service appeal, therefore appeal may be dismissed.
2. That the instant appeal is not maintainable in its present form.
3. That the present appeal is not maintainable due to non-joinder and mis-joinder of necessary parties.
4. That this Hon'ble Tribunal has got no jurisdiction to entertain the instant appeal.
5. That the appellant is estopped by his own conduct.
6. That the appeal of the appellant is badly time barred.

On facts:

1. Para-01 is correct. The appellant has been transferred in the interest of public service.
2. Para-01 is incorrect, hence, denied.
3. Incorrect, hence denied. In terms of Section-10 of Civil Servant Act, 1973, a civil servant may be posted anywhere in the Province. Therefore, the appeal is liable to be dismissed.

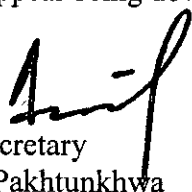
Grounds:

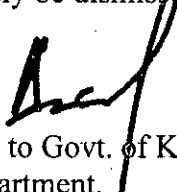
- A) Para-A is correct. The appellant has been transferred in the interest of public service.
- B) Incorrect, hence, denied. The appellant has been transferred in the interest of public service and on administrative ground. Bar Association of District Kurram has approached different administrative hierarchies for posting of a permanent law officer in the District. Keeping in view the exigency of services coupled with administrative needs the petitioner was posted in Kurram as District Attorney. The officer has been working in Peshawar for 10 years & 9 months on different posts in different years out of his 13 years service as such the transfer notification has not been issued under political pressure or influence.

- C) Incorrect, hence denied. Malafide intentions cannot be attributed to the Competent Authority. The transfer is in accordance with law, rules and posting/transfer policy of Provincial Government. The department is facing acute shortage of law officer; recruitment through Khyber Pakhtunkhwa Public Service Commission in pipeline, however, because of aforementioned administrative needs & exigency of services the petitioner was posted.
- D) Pertains to record.
- E) Incorrect. In terms of Section-10 of Civil Servant Act, 1973, a civil servant may be posted anywhere in the Province. Moreover, the petitioner has been serving in Peshawar for last 02 years & 9 months and complete his tenure according to transfer policy enclosed.
- F) Incorrect, hence denied. The department makes its own administrative arrangement time to time and in accordance with the Appointment, Promotion and Transfer Rules, 1989. Therefore, the transfer notification was issued in the interest of public service.
- G) Incorrect, hence denied. The Petitioner had been serving in Peshawar for 02 years & 9 months.
- H) Incorrect, hence denied. The impugned order was issued in accordance with law & rules.
- I) Incorrect, hence denied. The appellant has been transferred in the interest of public service and as such the transfer notification has not been issued under political manipulation.
- J) Pertains to record.
- K) Incorrect. The petitioner was transferred to District Kurram on purely administrative grounds. The Department is facing acute shortage of officer. Khyber Pakhtunkhwa Public Service Commission is processing pending requisition of this department. As a stop gap arrangements the department has given additional charge to different District Attorneys viz-a-viz numerous Law Officers are posted as District Attorneys in their own pays scales to overcome the shortage of officer and for smooth flow of official business.
- L) As detail reply in above Para-K.
- M) That the respondents also seek permission of this Honourable Tribunal to agitate further grounds at the time of arguments.

Prayer:

It is therefore, most humbly prayed that on acceptance of this Parawise comments, the instant appeal being devoid of legal footings and merits may graciously be dismissed with cost.


Chief Secretary
Khyber Pakhtunkhwa
Respondent No.01


Secretary to Govt. of Khyber Pakhtunkhwa,
Law Department.
Respondent No.02

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.7734/2021, Mr. Noor Elahi Khan, Deputy District Attorney (BPS-18), Peshawar under transfer to District Attorney District Kurram. .. Appellant

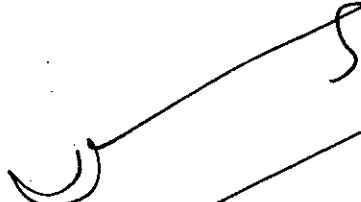
Versus

Government of Khyber Pakhtunkhwa through the Chief Secretary, Govt. of Khyber Pakhtunkhwa, Peshawar & Others Respondents

AFFIDAVIT

I, Naid Wali, Assistant Law Officer, Govt. of Khyber Pakhtunkhwa, Law Department, do hereby solemnly affirm and declare on oath that the Parawise comments on behalf of respondent No.02 is true and correct to the best of my knowledge and belief that nothing has been concealed from this Hon'ble Court.

N Wali
Deponent

Identified By: 
14/12/21
District Attorney
Khyber Pakhtunkhwa
Service Tribunal Peshawar

CNIC No...17301-9113868-5
Cell No...0381-922268.

Additional Advocate General
Service Tribunal Khyber Pakhtunkhwa, Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA LAW,
PARLIAMENTARY AFFAIRS & HUMAN RIGHTS
DEPARTMENT

No. SOG(ED)/15-8/2021
Dated Peshawar the, 30th December, 2021

To

- ✓ 1 The Registrar,
Gomal University, D.I Khan
- 2 The Chairman,
Board of Intermediate & Secondary Education, Peshawar
- 3 The Chairman,
Board of Intermediate & Secondary Education, Bannu.
- 4 President Khyber Pakhtunkhwa Bar Council Peshawar.

SUBJECT: VERIFICATION TO DEGREES / CERTIFICATES AND LICENSES IN RESPECT OF NEWLY RECRUITED ASSISTANT DISTRICT ATTORNEYS (BPS-17) IN LAW, PARLIAMENTARY AFFAIRS AND HUMAN RIGHTS DEPARTMENT (ADVT. NO.08/2019, S. NO.11).

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith copies of degrees / certificates (original receipt/Bank draft enclosed) and licenses in respect of the following recommendee for verification which may please be returned to this office for further necessary action

S#	Name of Candidate with Father's Name	District Domicile/Zone	Addresses
1	Mr. Hidayat Ullah S/O Taj Malook	South Waziristan / 1	Village Piaza Tehsil Saranoga, District South Waziristan.

Encl: (As above)

Yours faithfully,

Aurangzeb

(AURANGZEB)
Section Officer (General)

Encl: No & Date Even.

Copy forwarded to the

1. PS to Secretary Law, Parliamentary Affairs & Human Rights Department
2. PA to Deputy Secretary (Admin), Law Department.

Section Officer (General)



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 949 1ST

Dated: 15-4-2022

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

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

To

The Secretary Law Department,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: JUDGMENT IN APPEAL NO. 7734/2021, MR. NOOR ELAHI KHAN.

I am directed to forward herewith a certified copy of Judgement dated 19.01.2022 passed by this Tribunal on the above subject for compliance please.

Encl: As above


REGISTRAR

KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR