

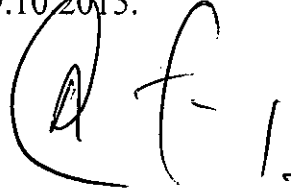
Sr: No.	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	19.10.2015	<p data-bbox="613 415 1414 498" style="text-align: center;"><b>KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, <u>PESHAWAR.</u></b></p> <p data-bbox="786 541 1203 582" style="text-align: center;">Service Appeal No.697/2014</p> <p data-bbox="631 624 1446 708" style="text-align: center;">Muhammad Raza Khan Vs. The Director (E&amp;SE), KPK, Peshawar etc.</p> <p data-bbox="760 750 954 791" style="text-align: center;"><u>JUDGMENT</u></p> <p data-bbox="613 834 1474 1128"> <u>PIR BAKHSH SHAH, MEMBER.-</u> Appellant with counsel (Mr.Muhammad Asif Yousafzai, Advocate) and Government Pleader (Mr. Muhammad Jan) for the appellant present. </p> <p data-bbox="613 1219 1474 1758"> 2. The appellant while serving as PST GPS No. 1, Sabir Abad, District Karak, has been transferred to GPS Ziarat Banda vide impugned order dated 29.03.2014, against which his departmental appeal was rejected by the appellate authority vide order dated 14.5.2014, hence this appeal, under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974. </p> <p data-bbox="613 1849 1300 1890"> 3. Arguments heard and record perused. </p> <p data-bbox="613 1980 1474 2363"> 4. On record there is no material to show that the appellant was transferred on any ill-will or malafide, much-less any political interference. It was further found that the appellant has completed his normal tenure at GPS Sabir Abad. We do not find any merit in the appeal and is </p>

hereby dismissed. Parties are left to bear their own costs.

File be consigned to the record room.

ANNOUNCED

19.10.2015.



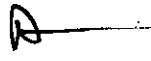
(ABDUL LATIF)  
MEMBER



(PIR BAKHSH SHAH)  
MEMBER

14.05.2015

Appellant in person and Muhammad Hamayun, ADO alongwith Muhammad Jan, GP for the respondents present. Appellant requested for adjournment. Adjourned to 11.06.2015 for arguments on application for interim relief as well as merits of the case before D.B. Status-quo is extended till the date fixed.

  
Member

  
Member

11.06.2015


Appellant with counsel and Mr. Muhammad Hamayun, ADO alongwith Muhammad Jan, GP for respondents present. Learned counsel for the appellant requested for adjournment. Adjourned to 4.9.2015. Status-quo is extended till then the date fixed.

  
Member

  
Member

04.09.2015

Counsel for the appellant and Mr. Ziaullah, GP for respondents present. Counsel for the appellant requested for adjournment. To come up for arguments on 19.10.2015. Status-quo is extended till then the date fixed.

  
Member

  
Member

697/2014

3.2.2015

Counsel for the appellant and Mr. Ziaullah, GP with Khursheed Khan, SO, Mosam Khan, AD, and Muhammad Hamayun, ADO for the respondents present and requested for further time to be granted to them for submission of written reply. To come up for written reply on main appeal as well as reply/arguments on stay application on 4.3.2015. Till then status quo is extended.

  
MEMBER

4.3.2015

Counsel for the appellant and Addl. AG with Muhammad Hamayun, ADO for the respondents present. The learned Addl. AG requested for time to submit reply on main appeal as well as stay application. It was brought into notice of the Tribunal that status quo order has already been granted in favour of the appellant. To come up written reply on main appeal as well as reply/arguments on stay application on 06.4.2014. Status quo as before till then.

  
MEMBER

06.4.2015

Counsel for the appellant and Mr. Muhammad Jan, GP with Muhammad Hamayun, ADO for the respondents present and reply filed. To come up for arguments on application for interim relief as well as merits of the case on 14.5.2015. Rejoinder, if any, in the meantime. Status quo is extended till the date fixed.

  
MEMBER

24.07.2014.

Counsel for the appellant and Mr. Muhammad Jan, GP with Muhammad Farooq, ADO and Sajjad Rashid, AD for the respondents present and requested for adjournment. To come up for reply/arguments on application for interim relief on 05.09.2014. Till then status is extended.

  
MEMBER

05.09.2014

Appellant with counsel, Mr. Muhammad Jan, GP with Muhammad Javed, Supdt. for respondents No. 1 and 4 present and submitted before the court that the case pertains to district ~~to~~ <sup>level</sup> leave, therefore, fresh notices be issued to respondents No. 2 & 3. To come up for written reply on main appeal as well as reply/arguments on stay application on 27.10.2014. Till then status quo is extended.

  
MEMBER

27.10.2014.

Appellant with counsel and Mr. Muhammad Jan, GP with Mosam Khan, AD and Muhammad Farooq, ADO for the respondents present and need further time. To come up for written reply on main appeal as well as reply/arguments on stay application on 12.12.2014. Till then status quo is extended.

  
MEMBER

12.12.2014.

Appellant in person and Mr. Muhammad Jan, GP with Mosam Khan, AD for the respondents present. The Tribunal is incomplete. To come up for the same on 03.2.2015.

  
READER

Appeal No. 697/2014  
Mr. Muhammad Raza Khan

3. 11.06.2014

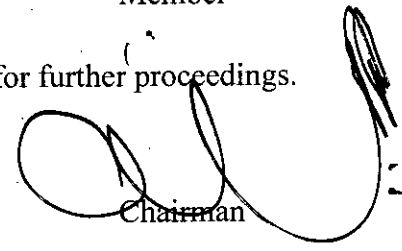
Appellant with counsel present. Preliminary arguments heard and case file perused. Counsel for the appellant contended that the appellant has not been treated in accordance with law/rules. Against the original order dated 29.03.2014, he filed departmental appeal on 15.04.2014, which has been rejected on 14.05.2014, hence the present appeal on 15.05.2014. He further contended that the impugned order dated 14.05.2014, has been issued in violation of Rule-5 of the Civil Servant (Appeal) Rules 1986. Points raised at the Bar need consideration. The appeal is admitted to regular hearing subject to all legal objections. The appellant is directed to deposit the security amount and process fee within 10 days. Thereafter, Notices be issued to the respondents. Counsel for the appellant has also filed an application for suspension of the operation of impugned order dated 29.03.2014. Notice of application should also be issued to the respondents for reply/argument. To come up for written reply/comments on main appeal on 05.09.2014 as well as reply/arguments on application on 26.06.2014.

Appellant deposited  
Process fee & Security  
Rs. 200/- Bank Receipt  
attached with file

  
Member

4. 11.06.2014

This case be put before the Final Bench II for further proceedings.

  
Chairman

26.6.2014.

Appellant with counsel, Mr. Muhammad Jan, GP with Muhammad Farooq, ADO for the respondents present and requested for time.

Counsel for the appellant submitted before the court that the impugned transfer order is politically motivated as is evident from the record wherein copy has been endorsed to Chairman, DDAC, District Karak/MPA PK-40.

Since the respondents have failed to file written reply, hence status quo be maintained till the next date. To come up for reply/arguments on application for interim relief on 24.07.2014.

MEMBER 



MEMBER 

Form- A

FORM OF ORDER SHEET

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

Case No. 697/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	15/05/2014	<p>The appeal of Mr. Muhammad Raza Khan presented today by Mr. Muhammad Asif Yousafzai Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;">                       REGISTRAR                 </p>
2	19-5-2014	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>11-6-2014</u></p> <p style="text-align: right;">                       CHAIRMAN                 </p>

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

Appeal No. 697 /2014


Mr. Muhammad Raza Khan V/S Education Department

**INDEX**


S.No.	Documents	Annexure	Page No.
1.	Memo of Appeal	-----	01-03
2.	Stay Application	----	04-05
3.	Copy of Order (23.1.2014)	- A -	06
4.	Copy of Order (24.1.2014)	- B -	7
5.	Copy of Order (29.3.2014)	- C -	8
6.	Copy of Appeal	- D -	9
7.	Copy of Rejection Order	- E -	10
8.	Copy of Advertisement	- F -	11
9.	Copy of Notification	-G-	12
10.	Copy of Policy	-H-	13 - 19
11.	Vakalat Nama		20

APPELLANT   
Muhammad Raza Khan

THROUGH:

  
( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.

And

  
( Taimur Ali Khan )  
Advocate, Peshawar.



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

Appeal No. 697 /2014

Mr. Muhammad Raza Khan, PST,  
GPS No.1, Sabir Abad, Karak.

714  
15-5-2014

**APPELLANT**

VERSUS

1. ✓ The Director Education (E&SE), Khyber Pakhtunkhwa, Peshawar.
2. ✓ The District Education Officer (Male), E&SE, Karak.
3. ✓ The Deputy District Education Officer (Male), E&SE, Karak
4. ✓ The Deputy Director (Estab), E&SE, Peshawar.

**RESPONDENTS**

.....

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA, SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 14.5.2014 WHEREBY THE DEPARTMENTAL APPEAL AGAINST THE ORDER DATED 29.3.2014 HAS BEEN REJECTED FOR NO GOOD GROUNDS.

.....

**PRAYER:**

THAT ON ACCEPTANCE OF THIS APPEAL, THE ORDER DATED 14.5.2014 MAY BE SET ASIDE WITH FURTHER DIRECTIONS TO THE RESPONDENTS NOT TO TRANSFER THE APPELLANT ON THE BASIS OF POLITICAL PRESSURE AND INTERVENTION BY DECLARING THE ORDER DATED 29.3.2014 POLITICALLY MOTIVATED AGAINST THE JUDGMENT OF THE HONORABLE SUPREME COURT AND PASSED BY INCOMPETENT AUTHORITY.

15/5/14

**RESPECTFULLY SHEWETH:**

1. That the appellant is a trained PST teacher and was posted at GPS No.1, Sabir Abad, Karak on 2.2.2012. Thus, the appellant was prematurely transferred on

23.1.2014 but the same was canceled on the appeal of the appellant on 24.1.2014. Copies of order dated 23.1.2014 and 24.1.2014 are attached as Annexure-A and B.

2. That again the respondent No.3 who is not competent authority to transfer the appellant, on the basis of D.O. of MPA, PK-40 transferred the appellant on 29.3.2014 to GPS Ziarat Banda against the newly created sanctioned post. Copy of order is attached as Annexure-C.
3. That the appellant filed representation against the said order on 15.4.2014 but the same was rejected for no good on 14.5.2014. Copy of Appeal and Rejection Order are attached as Annexure-D and E.
4. That now the appellant comes to this Honorable Tribunal on the following grounds amongst the others:

**GROUND:**


- A) That the order dated 29.3.2014 is politically motivated and has been passed in violation of Government instructions and Judgment of the Supreme Court as well as the impugned rejection order is bad in the eyes of law, therefore not tenable and liable to be set aside.
- B) That the order dated 29.3.2014 has been issued on the basis of DO letter of MPA PK-40 as evident from the endorsement made in the order. Thus, the order dated 29.3.2014 is liable to be set aside on this score alone.
- C) That the order dated 29.3.2014 has been passed by incompetent authority (Deputy District Officer) Male, Karak because the competent authority for the appellant is District Education Officer. Thus the order passed by incompetent authority legally can not be sustained.

- D) That the order has been passed during the ban period widely published in the newspaper, therefore, the order is also legally not sound and valid as the same has been passed not only by incompetent authority but also without relaxation of ban. Copy of Ban advertisement in the newspaper is attached as Annexure-F.
- E) That the appellant has not been treated according to law and rules and has been victimized due to political interference.
- F) That the order dated 29.3.2014 is against the government instructions issued on 27.2.2013 as well as posting, transfer policy of the government, therefore, the order dated 29.3.2014 is liable to be set aside. Copy of Notification and Policy of the Government are attached as Annexure-G and H.
- G) That since the appellant has not been relinquished the charge, therefore, the balance of convenience in favour of the appellant.
- H) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.


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

APPELLANT   
Muhammad Raza Khan

THROUGH:

  
( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.

And

  
( Tairmur Ali Khan )  
Advocate, Peshawar.

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

Appeal No. \_\_\_\_\_/2014

Mr. Muhammad Raza Khan      V/S      Education Department

.....  
**APPLICATION FOR SUSPENDING THE  
OPERATION OF THE IMPUGNED ORDER  
DATED 29.3.2014 TILL THE DISPOSAL OF  
MAIN APPEAL.**

**RESPECTFULLY SHEWETH:**

1. That the appellant has filed an appeal along with this application which no date has been fixed so far.
2. That the appellant has a good prima facie case and all the ingredients are in favour of the appellant.
3. That the order is politically motivated and premature, moreover, the same has been passed in violation of government posting, transfer policy.
4. That the ground of main appeal may also be integral part of this application.
5. That if the impugned order has not been suspended, then the appellant would become mentally torture.
6. That the impugned order has been passed by the respondent, which is illegal and violation of rules.
7. That the order dated 29.03.2014 has been passed in violation of the instruction of Policy of Transfer and Posting of the Government.


It is, therefore, most humbly prayed that the operation of the impugned dated 29.03.2014 may be suspended till the

disposal of main appeal. Any other remedy with this august Tribunal deems fit may also be awarded in favour of appellant.

Appellant

  
Muhammad Raza Khan

Through:

  
( M. ASIF YOUSAFZAI )  
ADVOCATE, PESHAWAR.

And

  
( Tairmur Ali Khan )  
Advocate, Peshawar.

**Affidavit:**

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

  
Deponent

OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) KARAK.

ADJUSTMENT

Mr. Bana Khan PST Govt: Primary School Sabir  
Abed is hereby adjusted against the vacant post at Govt: Primary  
school Konaka in the interest of public service with effect from  
the date of his taking over charge.

Note:- NO TA/DA is allowed.

Charge report should be submitted to all concerned.

(DISTRICT EDUCATION OFFICER)

(MALE) KARAK.

Encls: NO: 186-87 AE-I Dated Karak the 23/1 /2014.

Copy to these

1. Distt: Accounts Officer Karak.
2. Sub Divisional Education Officer (Mal-) Primary Karak/Banda Daud Shch.

  
Distt: Education Officer (Male.)

  
M. A. U. K.

ATTESTED  


A (6)

DECLARATION OF ORDER

B  
7

Adjustment order issued via this office  
order: NO: 186-37/2014 dated Karak the 25/1/2014 is hereby with-  
drawn with immediate effect.


(DISTRICT EDUCATION OFFICER)

(Male) KARAK.

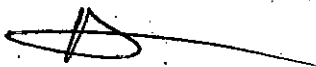
Order: NO: 196-97 dated Karak the 24/1 /2014.

Copy to these:

1. Distt:Accounts Officer Karak.
2. Sub Divisional Education Officer(Male) Piry:Karak/Banda Dand Shik.

  
By: Distt: Education Officer (Male)  
Karak.

ATTESTED



OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) KARAK.  
TRANSFER/ADJUSTMENT.

C  
8

Mr. Raza Khan PBT Govt. Primary School Sabir Abad is hereby transferred to G.P.O Ziarat Banda against the Newly/ Sanction Created Post on his own Pay and S.P.S just to run the School in Order to achieve the in-time intake of all out of school Children strategic interventions of Enrolment Campaign 2014.

NOTE: NO TA/DA etc is allowed.  
Charge Report should be submitted to all Concerned.

DISTRICT EDUCATION OFFICER  
(MALE) KARAK.

Banda: No. 915-6  
Copy to Hqs:-

Dated Karak the 29/3, 2014

1. Chairman DDAC District Karak/NPA PH 40 w/r to his D.O. Letter Dated 26.3.2014 for information please.
2. Sub Divisional Education Officer(M) Karak for n/action.

  
DISTRICT EDUCATION OFFICER  
(MALE) KARAK.

ATTESTED  




محترم جناب ڈائریکٹر صاحب ایلمنٹری اینڈ سیکنڈری ایجوکیشن فیصلہ تختہ خواہ

124  
9

مضمون: ایس اے کے مقررہ تبادلہ آرڈر

جناب عالی

گزارش ہے کہ سائل گورنمنٹ پیر امری سکول غرا صاحب آباد میں بحیثیت پیر امری سکول ریگولر فرائض انجام دے رہا ہے۔ سیاسی اثر رسوخ اور MPA صاحب کی مداخلت پر سائل کا تبادلہ یا سب سے پیشوں میں فدرجہ ذیل سکولوں کو کر وایا گیا۔ جن کی تفصیل ذیل ہے

① عطا لہ آرد رفر 87-186 مورخہ 23/1/2014 کو جی پی ایس غرا صاحب آباد

سے جی پی ایس زونہ کر وایا گیا جو کہ بعد میں کینسہ کرایا گیا ہے آرڈر کا پی لف ہے

② عطا لہ آرد رفر 6-915 مورخہ 29/3/2014 کو جی پی ایس غرا صاحب آباد سے

جی پی ایس زیارت بانڈہ کر وایا گیا - آرڈر کا پی لف ہے

جناب والد MPA صاحب کی مداخلت کی یہ کھلم کھلا ثبوت ہے کہ پیر آرڈر میں

MPA صاحب کو کا پی اندوس کر وایا گیا ہے

سائل ایک غریب 18 گریڈ کا PST استاد ہے۔ سائل کو بلاوجہ دور کے

سکول میں تبدیل کروانا باعث تکلیف ہے لہذا میر بانی فرما کر سائل کے تبادلے

کے احکامات منسوخ کرائے جائیں۔

عینہ لوازش ہوئی

فقط مورخہ 15 اپریل 2014

آپ کا تابع فرمان محمد رضا خان PST جی پی ایس غرا صاحب آباد

شناختی کارڈ نمبر 3-1313925-14202

ADDE/DDEM

13/5/14

872  
13/5

مفسر

13/5/14

ATTESTED

△

E  
= (10)

**DIRECTORATE OF ELEMENTARY AND SECONDARY EDUCATION**  
**KHYBER PAKHTUNKHWA.**

No. 1757 /F.No .16/Vol:II/PST(M)Karak.

Dated Peshawar the 14/5/2014.

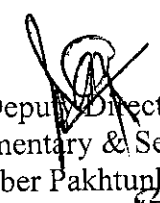
To,

The District Education Officer (M)  
Karak.

Subject: - **APPEAL FOR CAN CELLATION TRANSFER ORDER.**

Memo:-

I am directed to refer to the appeal of Muhammad Raza (copy attached) and to ask you to inform the teacher concerned that his appeal has been rejected as the ground that the order has been issued by the competent authority. It is not right, every Government Servant is required to serve any where under section 10 of the Civil Servant Act 1973.

  
Deputy Director (Estab :)  
Elementary & Secondary Edu  
Khyber Pakhtunkhwa Peshawar.

Endst: No. \_\_\_\_\_ /

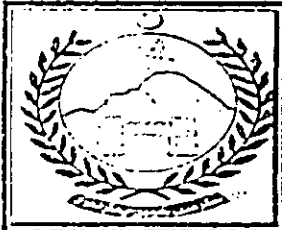
Copy forwarded to the:-

1. P.A to Director Elementary and Secondary Education local office.

Deputy Director (Estab :)  
Elementary & Secondary Edu:  
Khyber Pakhtunkhwa Peshawar.

**ATTESTED**  



GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT

(REGULATION WING)

NO. SOR.VI (E&AD)1 -4/2005/Vol-II  
Dated Peshawar, 27<sup>th</sup> February, 2013

12  
9  
12

Environment Department  
Govt. of Khyber Pakhtunkhwa  
Secy, D.No. 122/2013  
Dated: 28 Feb 2013

To  
*[Handwritten signature]*

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

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

Sir,

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

- (i) **Appointments, Removals and Promotions:** Appointments, removals and promotions must be made in accordance with the law and the rules made thereunder, where no such law or rule exists and the matter has been left to discretion, such discretion must be exercised in a structured, transparent and reasonable manner and in the public interest.
- (ii) **Tenure, Posting and Transfer:** When the ordinary tenure for a posting has been specified in the law or rules made thereunder, such tenure must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable.

*[Handwritten initials]*  
*[Handwritten initials]*  
*[Handwritten initials]*

*[Handwritten signatures and initials]*  
SPM. / Secy  
So Lic / So Est  
5/3

ATTACHED

*[Handwritten signature]*

- (iii) **Illegal Orders:** Civil Servants owe their first and foremost allegiance to the law and the constitution. They are not bound to obey orders from superiors which are illegal or are not in accordance with accepted practices and rule based norms; instead, in such situations, they must record their opinion and, if necessary, dissent.
- (iv) **OSD:** Officers should not be posted as OSD except for compelling reasons, which must be recorded in writing. If at all an officer is to be posted as OSD, such posting should not exceed 03 months. If there is a disciplinary inquiry going on against him/her such inquiry must be completed at the earliest. The officer on special duty may be posted against a post of his/her equivalent pay scale/grade within 03 months of his/her order as OSD.

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

Yours faithfully,

*Najam*  
(NAJ-MUS-SAHAR)  
SECTION OFFICER (REG-VI)

Encl: as above.

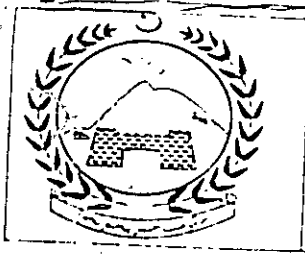
A copy is forwarded to:-

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

*Najam*  
SECTION OFFICER (REG-VI)

*Legal Advisor  
Supalla  
Mardan*

13



**GOVERNMENT OF KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT  
(REGULATION WING)**

*U.H.*

**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. *(See P-06 as retained)*
- v) *2 years tenure retained vide P-06 for un-attractive/hard area*
- vi) While making posting/transfers of officers/officials up to BS-17 from settled areas to FATA and vice versa approval of the Chief Secretary, Khyber PakhtunKhwa 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, Khyber PakhtunKhwa 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)<sup>1</sup> All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for atleast 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 (Thana) of his area/residence is situated.

**ATTESTED**  
*[Signature]*

<sup>1</sup> Circular letter No. SOR-VI/E&AD/1-4/2008/Vol-VII dated, the 11<sup>th</sup> September, 2009  
<sup>2</sup> Para-1(v) regarding months of March and July for posting/transfer and authorities for relaxation of ban deleted vide letter No: SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-5-2008. Consequently authorities competent under the Khyber PakhtunKhwa 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.  
<sup>3</sup> Para-VI added vide circular letter No. SOR-VI/E&AD/1-4/2010/Vol-VIII dated 20<sup>th</sup> March, 2010.  
<sup>4</sup> Sub para-VI (a) added vide circular letter No. SOR-VI/E&AD/1-4/2008 dated 22<sup>nd</sup> October, 2008.

14

- viii) No posting/transfers of the officer's officials on detailment basis shall be made.
- ix) Regarding the posting of husband/wife, both in Provincial services, efforts where possible would be made to post such persons at one station subject to the public interest.
- x) All the posting/transferring authorities may facilitate the posting/transfer of the unmarried female government Servants at the station of the residence of their parents.
- xi) Officers/officials except DCOs and DPOs/SPs who are due to retire within one year may be posted on their option on posts in the Districts of their domicile and be allowed to serve there till the retirement

<sup>1</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 Khyber PakhtunKhwa 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 column2 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	Secretary of the Department concerned.

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

ATTESTED

15

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

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

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

xiv) Government servants including District Govt. employees feeling aggrieved due to the orders of posting/transfer authorities may seek remedy from the next higher authority / the appointing authority as the case may be through an appeal to be submitted within seven days of the receipt of such orders. Such appeal shall be disposed of within fifteen days. The option of appeal against posting/ transfer orders could be exercised only in the following cases.

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

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

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

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.

\*\*\*\*\*

ATTESTED  




16

✓ 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-V/E&AD/1-4/2003 dated 24-6-2003.

\*\*\*\*\*

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

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

SPECIMEN NOTIFICATION.

GOVERNMENT OF KHYBER PAKHTUNKHWA  
NAME OF ADMINISTRATIVE  
DEPARTMENT

Dated Peshawar, \_\_\_\_\_

NOTIFICATION

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

CHIEF SECRETARY  
GOVERNMENT OF KHYBER PAKHTUNKHWA

Endst. No. and date even.

Copy forwarded

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

(NAME)  
SECTION OFFICER  
Administrative Department

{Authority: Letter No. SO (E-1) E&AD/9-12/2006 dated 22-12-2006}.

The competent authority has been pleased to direct that Para 1(v) of the Posting/Transfer Policy contained in this Department letter No:SOR-1 (E&AD) 1-1/85 Vol-II, dated 15-2-2003 shall stand deleted, with immediate effect, consequently allowing the authorities, competent under the Khyber PakhtunKhwā Government Rules of Business, 1985 and the District Government Rules of Business, 2001 or any other rules for the time being in force, to make posting/transfers of Government servants, any time during the year, in genuinely deserving and necessary cases, in public interest.

subject to strict observance of all other provisions of posting/transfer policy contained and notified vide circular letter under reference. Hence there will be no ban on posting/transfer of Government Servants in any part of the year while carrying out postings/transfers of Government Servants.

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

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

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

\*\*\*\*\*

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

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

\*\*\*\*\*

The Chief Minister Khyber PakhtunKhwa has directed that:-

- i) Submission of summary would not be required in case of mutual transfer.
- ii) ✓ Posting/transfer shall be made according to the policy;
- iii) Government Servants shall avoid direct submission of applications to the Chief Minister;
- iv) In genuinely deserving case, they should approach the Administrative Secretaries who could process the case according to policy;
- v) In case of direct submission of application to the Chief Minister Secretariat for Posting/ Transfer, the concerned govt servants shall be proceeded against under the prevalent rules and regulations.

{Authority: Urdu circular No: SOR-VI/E&AD/1-4/2003, dated 8-6-2004 & Urdu Letter No: SOR-VI/E&AD/Misc: /2005, dated 3-1-2006 }

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

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

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

\*\*\*\*\*

The competent authority has decide that in order to maintain discipline, enhance performance of the departments and ensure optimum service delivery to the masses, the approved /prevalent policy of the posting/transfer shall be strictly followed. Government Servants violating the policy and the Khyber PakhtunKhwa Govt Servants (Conduct) Rules 1987 shall be proceeded against under the Khyber PakhtunKhwa Removal from Service (Special Powers) Ordinance 2000. As required under the Khyber PakhtunKhwa Govt Rules of Business 1985, the Administrative Secretaries shall ensure compliance with the policy and defaulting offices/officials be taken to task & entries to this effect

18

shall be made in their PERs/ACRs. In case subordinate officers are working on sites or proceeding for the purpose of inspection, they shall submit inspection Report to their Administrative Secretaries. Administrative Secretaries shall ensure submission of such reports.

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

\*\*\*\*\*  
In continuation of this Department circular letter No.SOR-VI(E&AD)1-4/2008/Vol-VII dated 11<sup>th</sup> September, 2009, 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:-

Unattractive/Hard Areas

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. Batgram District.
- e. Shangla District. ✓
- f. Hangu District.
- g. PATA areas of Mansehra (Kala Dhaka)

1) Tenure for settled area 03 yrs  
2) unattractive area is 02 yrs  
(P-I)

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.

7 PLACEMENT POLICY.

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

- i) All placements would be made on the basis of merit and keeping in view the needs of the organization.
- ii) The first priority in placement must go the parent organization of the participant from where the individual had applied. This will be in

Signature

19

consonance with the concept of establishing the "Need" for the department and fulfilling the need through "capacity building for the organization.

- iii) In order to follow the "bottom up approach" for Devolution, the priority within departments must go to the Districts, the Provinces and than the Federal Government.
- iv) The second priority in placement should go to up-grading the existing training Institution within the country. The knowledge gained by the officers, will be of immense value to bring about a qualitative change in the training institutions. The following proposals are made in this regard:
  - a) Permanent posting of an officer to the training institutions for 2-3 years;
  - b) Temporary attachment with the training intuitions for 3 to 6 months for some research project on helping in developing case studies;
  - c) Earmarked as a visiting faculty member for specific subject.
- v) Individuals posted to their parent organizations will also organize training for their subordinates within the department, in order to transfer the knowledge and bring about a qualitative change internally;
- vi) ✓ The Normal tenure of posting as already provided in the policy would be ensured;
- vii) No participant should be allowed to be posted on deputation to multinational donor agencies for at least 5 years;
- viii) No participants will decline/represent against his/her posting.

\*\*\*\*\*  
 \*\*\*\*\*  
 \*\*\*\*\*

ATTESTED

**OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) KARAK**

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA PESHAWAR**

**Appeal No.697**

**MR: RAZA KHAN PST, GPS NO1, SABIR ABAD, KARAK.....Appellant.**

Versus

1. Director Elementary and Secondary Education KPK Peshawar.
2. District Education Officer (Male) Karak.
3. Deputy District Education Officer (Male) Karak.
4. Deputy Director (Estab) E & SE, Peshawar.....Respondents.

**Reply on behalf of Respondent No.1 to 4.**

Respectfully sheweth,

Written reply on behalf of respondent No.1 to 4 is submitted as under:-

**Preliminary Objection:**

1. That the Appellant has got no cause of action.
2. The appellant has no Locus standi.
3. The appeal is against Law, facts and material placed on file.
4. The appellant has not come to the Honorable Tribunal with clean hands.
5. The appellant has suppressed some important material/facts from the Honorable tribunal.
6. The appeal is time barred.
7. The appeal is not entertain able and maintainable in present form.
8. The appeal is liable to be dismissed.

**FACTS:**

1. Para No 1 pertains to record.
2. Incorrect. Respondent No 3 was the in charge of the office at that time and the post of DEO was vacant, the entire office was run by Respondent no 3. Hence the order was issued by competent authority in public interest.
3. Incorrect. Departmental appeal for cancelation was rejected on the ground that according to the civil servant Act 1973, he is required to serve anywhere.
4. Incorrect. That the Appellant has got no cause of action to file instant appeal.

**Grounds:**

- A. Incorrect. The Order dated 29/03/2014 was not politically motivated but The Chairman District Development Advisory Committee (DDAC) Karak directed the office to fill the newly created posts of GPS Ziarath Banda for enrolment campaign 2014 as desired by the Provincial Government and did not nominate

any teacher to be transferred. Hence the order was not politically motivated but it was the decision of DDAC Karak.

- B. Incorrect. The transfer order was made on the direction of Chairman of District Development Advisory Committee karak to "fill the vacant post for enrolment campaign" and did not nominate any teacher to be transferred. So the direction of "Filling of vacant post" was official of DDAC and not political.
- C. Incorrect, due to vacant post of the DEO (M) Karak from 28/02/2014 to 30/04/2014 Deputy District Education Officer in BPS-18 was running the Office.
- D. Incorrect. There was ban on posting/transfer but the said post was not advertised. Because it was newly created post and it was the time of EDUCATION EMERGENCY for new enrolment of out of school children, so this transfer was essential. Hence according to the rules the Ban was not applicable on that transfer.
- E. Incorrect. The appellant was treated according to the law and rules and has never been victimized.
- F. Incorrect. According to the Policy / Establishment Department Khyber Pakhtunkhwa attached with the appeal the tenure is 2 years for settled areas which is fulfilled i.e 02/02/12 to 29/03/14. More over the posting was need based for enrolment campaign.
- G. Incorrect. No Balance of convenience lies in favor of appellant.
- H. That the respondent seek permission to raise additional grounds at the time of arguments.

It is requested that the appeal may be dismissed with cost.

  
**DIRECTOR**

**Elementary and Secondary Education KPK  
Peshawar**

  
**DISTRICT EDUCATION OFFICER  
MALE KARAK**

  
**DEPUTY DISTRICT EDUCATION OFFICER  
MALE KARAK**

  
**DEPUTY DIRECTOR ELEMENTARY & SECONDARY EDUCATION  
KHYBER PAKHTUNKHWA PESHAWAR.**

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

Service Appeal No. 697/2014

Raza Khan

VS

Education Deptt:

.....

**REJOINDER ON BEHALF OF APPELLANT**

.....

**RESPECTFULLY SHEWETH:**

**Preliminary Objections:**

(1-8) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

**FACTS:**

- 1 Admitted correct by the respondent as the service record of the appellant is in the custody of concerned department.
- 2 Incorrect. Hence denied.
- 3 Incorrect. The impugned order was passed on political motivation and violation of government instructions and judgment of Supreme Court. Therefore he filed departmental appeal which was rejected for no good ground.
- 4 Incorrect. The appellant has good cause of action to file the instant appeal and liable to be accepted on the following grounds.

**GROUND:**

- A) Incorrect. While para A of the appeal is correct.
- B) Incorrect. The impugned order has been issued on the basis of DO letter of MPA PK-40 as evident from the endorsement made in the order. Thus it means that the impugned order is politically motivated and liable to be set aside.
- C) Incorrect. Hence denied.
- D) Incorrect. While para D of the appeal is correct.
- E) Incorrect. The appellant has not been treated according to law and rules and has been victimized due to political interference.
- F) Incorrect. According to posting/transfer policy attached with the appeal the tenure is 3 years for settled areas. Moreover the posting was not based on enrolment campaign but due to political motivation.
- G) Incorrect. The appellant has not been relinquished the charge, therefore, the balance of convenience in favour of the appellant.
- H) Legal.

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

APPELLANT  
Raza Khan

Through:

  
(M. ASIF YOUSAFZAI )

&   
(TAIMUR ALI KHAN)  
ADVOCATES, PESHAWAR.



**AFFIDAVIT**

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

*Asfi*

DEPONENT

**ATTESTED**

*14.05.2015*  
*Mir Sibghat Ullah Shah*  
Advocate  
OATH COMMISSIONER  
High Court Peshawar



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

Service Appeal No. 697/2014

Raza Khan

VS

Education Deptt:

.....

**REJOINDER ON BEHALF OF APPELLANT**

.....

**RESPECTFULLY SHEWETH:**

**Preliminary Objections:**

(1-8) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

**FACTS:**

- 1 Admitted correct by the respondent as the service record of the appellant is in the custody of concerned department.
- 2 Incorrect. Hence denied.
- 3 Incorrect. The impugned order was passed on political motivation and violation of government instructions and judgment of Supreme Court. Therefore he filed departmental appeal which was rejected for no good ground.
- 4 Incorrect. The appellant has good cause of action to file the instant appeal and liable to be accepted on the following grounds.

**GROUND:**

- A) Incorrect. While para A of the appeal is correct.
- B) Incorrect. The impugned order has been issued on the basis of DO letter of MPA PK-40 as evident from the endorsement made in the order. Thus it means that the impugned order is politically motivated and liable to be set aside.
- C) Incorrect. Hence denied.
- D) Incorrect. While para D of the appeal is correct.
- E) Incorrect. The appellant has not been treated according to law and rules and has been victimized due to political interference.
- F) Incorrect. According to posting/transfer policy attached with the appeal the tenure is 3 years for settled areas. Moreover the posting was not based on enrolment campaign but due to political motivation.
- G) Incorrect. The appellant has not been relinquished the charge, therefore, the balance of convenience in favour of the appellant.
- H) Legal.

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

APPELLANT  
Raza Khan

Through:

  
(M. ASIF YOUSAFZAI )

  
(TAIMUR ALI KHAN)  
ADVOCATES, PESHAWAR.

**AFFIDAVIT**

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

*[Handwritten Signature]*

DEPONENT



55	201055	KARAK	GPS ALGADI GHARBI	SOUTH KARAK														1	1
56	201056	KARAK	GPS TAKHT E NASRATI NO3	TAKHT E NASRATI														1	1
57	201057	KARAK	GPS TAKHT E NASRATI	TAKHT E NASRATI														1	1
58	201058	KARAK	GPS KRUSHKI KILLA (KHADA)	TAKHT E NASRATI														1	1
59	201059	KARAK	GPS ESAK KHUMARAI	TERI														4	4
60	201060	KARAK	GPS URMARH	TERI														1	1
61	201061	KARAK	GPS SARWAN BANDA	TERI														1	1
62	201062	KARAK	GPS PALOSKI	WARRANA AHMAD ABAD														1	1
63	201064	KARAK	GHS BAH DUR KHEL															1	1
64	201065	KARAK	GHS Dabb															1	1
65	201066	KARAK	GHS Dabb Sanginee															1	1
66	201067	KARAK	GHS Darish Khel															1	1
67	201068	KARAK	GHS Dhand Edal Khel															1	1
68	201069	KARAK	GHS Esak Khumari															1	1
69	201070	KARAK	GHS Makori															1	1
70	201071	KARAK	GHS Mami Khel															1	1
71	201072	KARAK	GHS Tarki Khel															1	1
72	201073	KARAK	GHS Teri															4	5
73	201075	KARAK	GHSS Chanda Khurram															3	3
74	201078	KARAK	GMS Kundi															1	1
75	201079	KARAK	GHS Ghunda Shamsaki															1	1
76	201084	KARAK	GHS Shahidan Chontara															1	1
77	201086	KARAK	GMS Bergi															1	1
78	201088	KARAK	GMS Chanda Manzai															1	1
79	201089	KARAK	GMS Walay Banda Dur Algada															1	1
80	201090	KARAK	GMS Makh Banda															1	1
81	201091	KARAK	GMS Kurd Sharif															1	1
82	201093	KARAK	GMS Kundi															1	1
83	201098	KARAK	GMS Lawaghar Chani Khel															1	1
84	201099	KARAK	GHS Jatta Ismail Khel															1	1
85	201100	KARAK	GHS Wargha Banda															1	1
<b>Total</b>					<b>17</b>	<b>5</b>	<b>6</b>	<b>2</b>	<b>2</b>	<b>3</b>	<b>65</b>	<b>101</b>							

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

No. 1639 /ST

Dated 22 /10 /2015


To

The DEO (Male) (E&SE),  
Karak..

Subject: - Judgement.

I am directed to forward herewith certified copy of Judgement dated 19.10.2015 passed by this Tribunal on subject for strict compliance.

Encl: As above

  
REGISTRAR  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR.