

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 7446/2021

Date of Institution ... 24.09.2021

Date of Decision ... 05.01.2022

Mr. Noor Zaman Khattak, District Attorney (BPS-19), Service Tribunal Peshawar
Under transfer to Directorate General of Law and Human Rights Peshawar.

... (Appellant)

VERSUS

The Honourable Chief Minister through its Principal Secretary, CM Secretariat
Peshawar and four others. ... (Respondents)

Syed Noman Ali Bukhari,
Advocate

... For Appellant

Javed Ullah,
Assistant Advocate General

... For official respondents No. 1 to 4

Usman Ghani,
Private Respondent No.5

... In Person

AHMAD SULTAN TAREEN
ATIQU-UR-REHMAN WAZIR

...
...

CHAIRMAN
MEMBER (EXECUTIVE)

JUDGMENT

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

Brief facts of the case are

that the appellant is serving as District Attorney and during the course of his service, the appellant was transferred and posted as District Attorney at Service Tribunal vide order dated 16-12-2020. While performing his duty, the appellant was again transferred and was directed to report to the directorate general of law & human rights vide order dated 03-06-2021. In compliance, the appellant reported arrival on 08-06-2021. Additional responsibility of his post was assigned to respondent No. 5 vide order dated 11-06-2021. The appellant however was allowed to draw his salary against the post of District Attorney at Service Tribunal, as there was no post available for him in the directorate. Feeling aggrieved, the

appellant filed departmental appeal, which was not responded within the statutory period, hence the instant service appeal with prayers that the impugned orders dated 03-06-2021 and 11-06-2021 may be set aside and the respondents may be directed not to transfer the appellant from the post of District Attorney Service Tribunal, until completion of his normal tenure.

02. Learned counsel for the appellant has contended that the impugned orders are against law, facts and norms of natural justice and material on record, hence not tenable and liable to be set aside; that the appellant has not been treated in accordance with law, as such the respondents violated Article 4 and 25 of the Constitution; that the impugned orders are violative of Clause-1 and IV of transfer/posting policy of provincial government; that the impugned orders have been issued by respondents in arbitrary and malafide manner, therefore the same is not tenable in the eye of law and liable to be struck down; that the impugned orders are also against the policy in a manner that prior to his transfer, respondents were required to have submit a summery before the chief minister, but the same legal requirement has not been fulfilled; that it is important to mention that respondent No. 5 have been assigned an additional charge and once any other person has been posted on it, the same would affect the appellant; that the appellant is still drawing his salary against the post of district attorney in service tribunal, from which he was transferred vide impugned order, as there is no post of OSD in the directorate of Law and human rights affairs and the appellant has illegally been directed to report there; that the impugned orders are issued just to harass the appellant and to accommodate his blue eyed person.

03. Learned Assistant Advocate General for the official respondents has contended that the impugned notification of transfer has been issued with the approval of the competent authority and it is mandatory upon the appellant to be transferred anywhere by the competent authority in terms of section 10 of Khyber Pakhtunkhwa Civil Servant Act, 1973, therefore, the appeal is liable to be dismissed; that as regard the assertion of the appellant regarding efficiency, the

service of the appellant has not been up to the mark and the appellant has a chequered history and was proceeded departmentally on the complaints from different quarters; that the entire service of the appellant is full of explanations, inquiries, warnings and showcause notices; that due to poor performance of the appellant, the appellant was transferred from service tribunal in the best public interest; that due to poor performance of the appellant, respondent No. 5 was authorized to hold additional charge of the office of District Attorney Service Tribunal in addition to his own duty till further orders vide notification dated 11-06-2021; that salary of the appellant has not been stopped by taking a lenient view in pursuance of principle set out by Superior Courts.

04. Private respondent No. 5 vide his written comment submitted before the tribunal has contended that the post of district attorney is not a tenure protected one and the competent authority can transfer any officer in exigency of service under law; that respondent No. 5 has rightly been posted by the competent authority in exigency of service in the best public interest under the prevailing law and rule; that the impugned transfer order have been passed after obtaining concurrence of the competent authority; that the appellant has not been posted as OSD, rather he was directed to report to directorate general of law and human rights affairs till further orders.

05. We have heard learned counsel for the parties and have perused the record.

06. Record reveals that the appellant was transferred to service tribunal vide order dated 16-12-2020. In a short span of five months, the appellant was directed to report to directorate general of law and human rights vide order dated 03-06-2021 and respondents No. 5 was assigned additional responsibility to the post of the appellant vide order dated 11-06-2021. It is interesting to note that the appellant reported his arrival in the directorate vide arrival report dated 08-06-2021, but there was no post available for him, hence he was allowed to draw

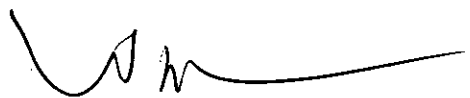
his salary from the post of District Attorney Service Tribunal, the post from where the appellant was transferred, which shows malafide on part of the respondent. In order to justify their stance, the respondents had projected the appellant with a tainted past, whereas on the strength of PLJ 2005 Tr.C (Services) 107 and PLJ 2016 Tr.C. (Services) 324, it cannot be made a ground for awarding penalty to a government servant. Moreover, transfer is not a punishment and if the respondents felt it expedient that the appellant was guilty of misconduct, he was required to be proceeded against, instead he was transferred and that too without posting against any post and without approval of the competent authority, which however was not warranted. We have observed that the appellant was transferred in violation of clause-I and IV of transfer policy, as he had not completed his tenure against the post. It is pertinent to mention that the appellant was transferred on 03-06-2021, but approval of the chief minister was obtained on a summery on 21-06-2021, which shows that the appellant was illegally transferred without approval of the competent authority and such approval was obtained in later date and on this score alone, the impugned orders are liable to be set at naught.

07. We are of the considered opinion that the appellant has not been treated in accordance with law and he was illegally transferred without approval of the competent authority and such approval was obtained after his transfer at a belated stage. In view of the foregoing, the instant appeal is accepted. The impugned orders dated 03-06-2021 and 11-06-2021 are set aside and the appellant is allowed posting in service Tribunal to complete his normal tenure. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED
05.01.2022



(AHMAD SULTAN TAREEN)
CHAIRMAN



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

ORDER

05.01.2022

Appellant alongwith his counsel present. Mr. Javed Ullah, Assistant Advocate General alongwith Mr. Naib Wali, Asst. Law Officer for the official respondents No. 1 to 4 present. Private respondent No. 5 in person present. Arguments heard and record perused.

Vide our detailed judgment of today, separately placed on file, the instant appeal is accepted. The impugned orders dated 03-06-2021 and 11-06-2021 are set aside and the appellant is allowed posting in service Tribunal to complete his normal tenure. Parties are left to bear their own costs. File be consigned to record room.

ANNOUNCED

05.01.2022



(AHMAD SULTAN TAREEN)
CHAIRMAN



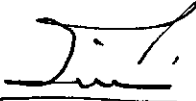
(ATIQ-UR-REHMAN WAZIR)
MEMBER (E)

7446/2021


09.12.2021

Appellant alongwith Numan Ali Bukhar Advocate present. Mr. Muhammad Adeel Butt, Addl. AG alongwith Naib Wali, Asstt. Law Officer for the official respondents and private respondent No. 5 in person present.

Arguments have been heard. Before announcement of the order it is deemed expedient to direct the respondent department to produce the copy of the proposal worked out for transfer of the appellant for consideration of the competent authority. Case to come up on 04.01.2022 before this D.B. Interim relief granted vide order dated 14.10.2021 shall remain operative till the date fixed.



(Salah-ud-Din)
Member(J)


Chairman

16.11.2021

Appellant in person present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Naid Wali, asst: Law Officer for official respondents present.

Written reply on behalf of official respondents has been submitted through office which is placed on file. Adjourned. To come up for arguments on 24.11.2021 before D.B. Interim relief granted vide order dated 14.10.2021 shall remain operative till the date fixed.



(Mian Muhammad)
Member(E)

24.11.2021

Appellant present in person.

Mr. Muhammad Adeel Butt, Additional Advocate General for official respondents present. Private respondent No.5 in person present.

Former submitted rejoinder with a request for adjournment as his counsel busy before Hon'ble Peshawar High Court; granted. To come up for arguments on 09.12.2021 before D.B. Interim relief granted vide order dated 14.10.2021 shall remain operative till the date fixed.


(Atiq ur Rehman Wazir)
Member (E)


(Rozina Rehman)
Member (J)

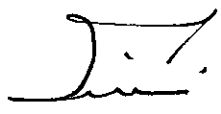
28.10.2021

Appellant alongwith his counsel Mr. Noor Muhammad Khattak, Advocate, present. Mr. Naid Wali, Assistant Law Officer alongwith Mr. Muhammad Adeel Butt, Additional Advocate General for official respondents No. 1 to 4 present. Private respondent No. 5 namely Mr. Usman Ghani in person present.

Respondent No. 5 has submitted an application through office for setting-aside of ex-parte proceedings initiated against him vide order dated 14.10.2021. Learned counsel for the appellant stated at the bar that he is having no objection on setting-aside of the order dated 14.10.2021 to the extent of placing of respondent No. 5 ex-parte. In this respect, written endorsement of learned counsel for the appellant obtained on the application submitted by respondent No. 5.

In light of the above, the order dated 14.10.2021 is set-aside only to the extent of placing of respondent No. 5 as ex-parte and he is allowed to join the proceedings. Respondent No. 5 alongwith his application has also filed comments/written statement as well as reply to the application filed by the appellant for suspension of operation of the impugned notifications. Copies of the same handed over to learned counsel for the appellant. Mr. Naid Wali, Assistant Law Officer requested that comments/reply on behalf of official respondents No. 1 to 4 is in pipeline, therefore, a short adjournment may be granted for submission of comments/reply. Adjourned. To come up for submission of comments/reply on behalf of respondents No. 1 to 4 as well as arguments before the D.B on 16.11.2021. In case respondents No. 1 to 4 failed to submit comments/reply on the date fixed, their right of submission of comments/reply shall stand ceased. Interim relief granted vide order dated 14.10.2021 shall remain operative till the date fixed.


(Mian Muhammad)
Member (E)


(Salah-Ud-Din)
Member (J)

14.10.2021

Appellant with counsel present.

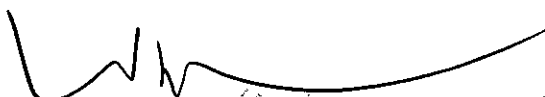
Javid Ullah, learned Assistant Advocate General alongwith Naib Wali Assistant Law Officer for official respondents No.1 to 4 present. Nemo for private respondent No.5, hence, placed ex-parte.


Comments on behalf of respondents were not submitted. Again, a request for adjournment was made by the respondents. Last chance is given for submission of comments within 10 days in office.

Learned counsel for appellant contended that despite directions, the respondents failed to submit comments and reply to the applications filed for suspension of the operation of impugned Notifications dated 03.06.2021 and 11.06.2021. He submitted that private respondent No.5 who is serving as District Attorney Labor Court, Peshawar was handed over additional charge of District Attorney Khyber Pakhtunkhwa Service Tribunal Peshawar in utter violation of transfer posting policy of the Provincial Government and that despite notification in respect of transfer of the appellant to the Directorate General of Law & Human Rights, he/the appellant is still drawing his monthly salary against the post of District Attorney Khyber Pakhtunkhwa Service Tribunal as no post of O.S.D exists in the Directorate General of Law & Human Rights.

As per record, the present appellant was transferred vide Notification dated 16th December, 2020 as District Attorney Service Tribunal while private respondent Mr. Usman Ghani was transferred as District Attorney to Labor Court Peshawar by replacing the appellant and just after five months, appellant was directed to report to Directorate General of Law & Human Rights, whereas, private respondent No.5 was authorized to hold the additional charge of the office of District Attorney Service Tribunal in addition to his own duties. The transfer order of the present appellant is manifestly against transfer posting policy of the Government of Khyber Pakhtunkhwa.

In this view of the matter, the operation of impugned notifications shall remain suspended till date fixed and if the appellant has been relieved from the post, ante-statusquo be restored. To come up for arguments on 28.10.2021 before D.B.


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


(Rozina Rehman)
Member (J)

04.10.2021


Appellant alongwith his counsel Mr. Kamran Khan, Advocate, present. Preliminary arguments heard.

Learned counsel for the appellant has contended that the appellant was posted as District Attorney in Khyber Pakhtunkhwa Service Tribunal vide notification dated 14.12.2020, however he was prematurely transferred and was directed to report to the Directorate General of Law and Human Rights vide impugned notification dated 03.06.2021. He further contended that private respondent No. 5, who is serving as District Attorney Labour Court Peshawar, was handed over additional charge of District Attorney Khyber Pakhtunkhwa Service Tribunal Peshawar, vide notification dated 11.06.2021 in utter violation of Transfer Posting Policy of the Provincial Government. He further contended that the appellant has though submitted arrival report in the Directorate General of Law and Human Rights but he is still drawing his monthly salary against the post of District Attorney, Khyber Pakhtunkhwa Service Tribunal Peshawar as no post of OSD exist in the Directorate General of Law and Human Rights. He next contended that the impugned orders were challenged through filing of departmental appeal before the appellate Authority, however the same has not been decided within the statutory period. He further contended that the impugned orders are wrong and illegal, therefore, the same are liable to be set-aside.

Points raised need consideration, hence the appeal is admitted to regular hearing subject to all legal and valid objections. The appellant is directed to deposit security and process fee within 10 days, where-after notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, the office shall submit the file with a report of non-compliance. File to come up for arguments before the D.B on 14.10.2021.

The appellant alongwith his appeal has also filed an application for suspension of the operation of the impugned notifications dated 03.06.2021 and 11.06.2021 till the disposal of appeal. Notice of the same also be issued to the respondents for the date fixed.

Appellant deposited
Security & Process Fee

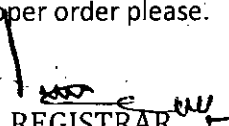

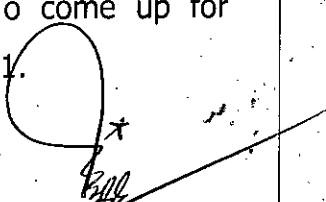

(SALAH-UD-DIN)
MEMBER (JUDICIAL)

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 7446 /2021

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	24/09/2021	<p>The appeal of Mr. Noor Zaman Khattak presented today by Mr. Noor Muhammad Khattak 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>28/09/21</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
	28.09.2021	<p>Appellant in person present.</p> <p>Appellant requested for adjournment on the ground that his learned counsel is busy before the Peshawar High Court, Peshawar in some other cases. Adjourned. To come up for preliminary hearing before the S.B on 04.10.2021.</p> <p style="text-align: right;"> (MIAN MUHAMMAD) MEMBER (E)</p>

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR
CHECK LIST**

Case Title: NOOR ZAMAN KHATTAK

V/S

LAW DEPTT:

S#	CONTENTS	YES	NO
1	This Appeal has been presented by: NOOR MOHAMMAD KHATTAK	✓	
2	Whether Counsel/Appellant/Respondent/Deponents 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:

NOOR MOHAMMAD KHATTAK

Signature:

Dated:

2021

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. _____/2021

NOOR ZAMAN KHATTAK V/S LAW DEPARTMENT

I N D E X

S.N	DOCUMENTS	ANNEXURE	PAGE
1	Memo of appeal,	1-4
2	Affidavit	5
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4	Notification dt: 16.12.2020	A	7-8
5	Impugned notification dt: 3.6.2021	B	9
6	Arrival report	C	10
7	Impugned notification dt: 11.6.2021	D	11
8	Relevant documents	E	12
9	Pay slip	F	13
10	Departmental appeal	G	14
11	transfer/posting policy	H	15-17
12	Wakalat Nama	18

Dated: 24/9/2021

APPELLANT

Through:

NOOR MOHAMMAD KHATTAK
ADVOCATE

FLATE NO. 04, 2ND FLOOR,
JUMA KHAN PLAZA, NEAR FATA SECRETARIAT,
WARSAK ROAD, PESHAWAR

0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

SERVICE APPEAL NO. 2446 2021

Diary No. 7631

Dated 24-9-2021

Mr. Noor Zaman Khattak, District Attorney (BPS-19),
Service Tribunal Peshawar Under transfer to Directorate General of Law
and Human Rights Peshawar.

..... **APPELLANT**

VERSUS

- 1- The Honourable Chief Minister through its Principal Secretary, CM Secretariat, Peshawar.
- 2- The Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.
- 3- The Secretary Law, Parliamentary Affairs & Human Rights Department, Khyber Pakhtunkhwa, Peshawar.
- 4- The Director General, Law and Human Rights, Khyber Pakhtunkhwa, Peshawar.
- 5- Mr. Usman Ghani, District Attorney Labour Court, Peshawar (additional Charge as District Attorney at Khyber Pakhtunkhwa Service Tribunal, Peshawar).

..... **RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATIONS DATED 03-06-2021 AND 11-06-2021 WHEREBY THE APPELLANT HAS PREMATURELY BEEN TRANSFERRED FROM THE POST OF DISTRICT ATTORNEY SERVICE TRIBUNAL PESHAWAR AND THE PRIVATE RESPONDENT HAS BEEN GIVEN THE ADDITIONAL CHARGE OF THE POST IN QUESTION IN UTTER VIOLATION OF TRANSFER/POSTING POLICY AND AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD.

PRAYER:

That on acceptance of this appeal the impugned notifications dated 03-06-2021 and 11-06-2021 may very kindly be set aside and the respondents may kindly be directed not transfer the appellant from the post of District Attorney Khyber Pakhtunkhwa Service Tribunal, Peshawar till completion of his normal tenure. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Filed to - da
w.
Registrar
24/9/2021

Brief facts giving rise to the present appeal are as under:-

- 1- That appellant is the employee of the respondents department and is serving as District Attorney (BPS-19) quite efficiently and up to the entire satisfaction of his high ups.
- 2- That during service the appellant was transferred vide notification dated 16-12-2020 and was posted as District Attorney at Service Tribunal Peshawar and submitted his arrival and started performing his duties. Copy of the notification dated 16-12-2020 attached as annexure **A.**
- 3- That while performing his duties quite efficiently and whole heartedly the appellant was prematurely transferred and was directed to report to the Directorate General of Law and Human Rights vide notification dated 03-06-2021 in utter violation of transfer and posting policy of the provincial government. Copy of the impugned notification dated 03-06-2021 is attached as annexure **B.**
- 4- That in response to the impugned notification the appellant submitted his arrival report on 08-06-2021. Copy of the arrival report is attached as annexure **C.**
- 5- That astonishingly the private respondent No. 5 was posted against the post of appellant vide notification dated 11-06-2021 once again in blatant violation of the transfer and posting policy of the provincial government. Copy of the impugned notification dated 11-06-2021 is attached as annexure **D.**
- 6- That it is important to mention here that the vehicle for the post of District Attorney at Service Tribunal Peshawar has also been taken back by the respondents. Copy of relevant document is attached as annexure **E.**
- 7- That it is important to mention the appellant is still withdrawing his monthly salary against the post of District Attorney at Service Tribunal Peshawar. Copy of the pay slip is attached as annexure **F.**
- 8- That feeling aggrieved from the impugned notifications dated 03-06-2021 and 11-06-2021 the appellant preferred departmental appeal before the worthy Chief Minister but the same has not been decided within the statutory period. Copy of the departmental appeal is attached as annexure **G.**
- 9- That appellant having no other efficacious remedy but to file the instant appeal on the following grounds amongst the others.

GROUND:

- A- That the impugned notifications dated 03-06-2021 and 11-06-2021 issued by the respondents are against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That appellant has not been treated in accordance with law and rules by the respondent department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the impugned notifications dated 03-06-2021 and 11-06-2021 are violative of Clause-I and Clause-IV of transfer/posting policy of Provincial Government. Copy of the transfer/posting policy is attached as annexure **H.**
- D- That the impugned notifications dated 03-06-2021 and 11-06-2021 have been issued by the respondents in arbitrary and mala fide manner, therefore, the same is not tenable in the eye of law and liable to be struck down.
- E- That the impugned notifications dated 03-06-2021 and 11-06-2021 are also against the policy of the transfer and posting in the manner that prior to the transfer of the appellant the respondents were required to have submitted a summery before the Chief Minister Khyber Pakhtunkhwa, but the same legal requirements has not been fulfilled by the respondents.
- F- That it is important to mention here that the private respondent No. 5 have been assign an additional charge and once any other person has been posted on-it the same would affect the appellant.
- G- That the appellant still withdrawing his salary against the post from which he is transferred vide impugned notification.
- H- That it is important to mention that there is no post as OSD in the Directorate of Law and Human Rights and the appellant has illegally been directed to report there.
- I- That impugned notifications dated 03-06-2021 and 11-06-2021 are nothing but just to harass the appellant and to accommodate his blue eyed person.
- J- That appellant seeks permission to advance other grounds and proofs at the time of hearing:

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

4

APPELLANT

[Signature]
NOOR ZAMAN KHATTAK

Through:

[Signature]
NOOR MOHAMMAD KHATTAK,

[Signature]
KAMRAN KHAN

[Signature]
SAID KHAN

[Signature]
UMAR FAROOQ
Advocates, Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. _____/2021

NOOR ZAMAN KHATTAK

VS

LAW DEPTT:

AFFIDAVIT

Stated on oath that the contents of the accompanying service appeal are correct to best of my knowledge and belief and nothing has been concealed from this Honorable Service Tribunal.



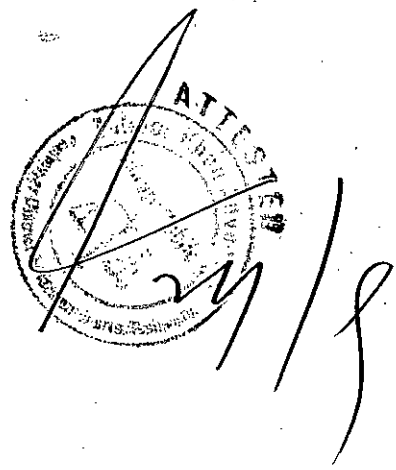
DEPONENT

CERTIFICATE:

Certify that no earlier service appeal has been filed by the appellant in the instant matter before this Honorable Service Tribunal.



CERTIFICATION



6

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL No. _____/2021

NOOR ZAMAN KHATTAK

VS

**GOVT. OF KP &
OTHERS**

**APPLICATION FOR SUSPENSION OF THE OPERATION OF
THE IMPUGNED NOTIFICATIONS DATED 03-06-2021 AND
11-06-2021 TILL THE DISPOSAL OF APPEAL.**

R/SHEWETH:

- 1- That the above mentioned appeal along with this application has been filed by the appellant before this august service Tribunal in which no date has been fixed so far.
- 2- That appellant filed the above mentioned appeal against the impugned transfer notification dated 03-06-2021 and 11-06-2021 whereby the private respondent No. 5 has been posted against the post held/ occupied by the appellant/ applicant.
- 3- That all the three ingredients necessary for the stay is in favor of the appellant.
- 4- That the impugned transfer notification dated notification dated 03-06-2021 and 11-06-2021 had been issued by the respondents in utter disregard of law and prevailing Rules.

It is therefore, most humbly prayed that on acceptance of this application the operation of the impugned transfer notification dated notifications dated 03-06-2021 and 11-06-2021 may very kindly be suspended till the disposal of the above mentioned service appeal.

Dated: 24.09.2021

APPLICANT


NOOR ZAMAN KHATTAK

THROUGH:

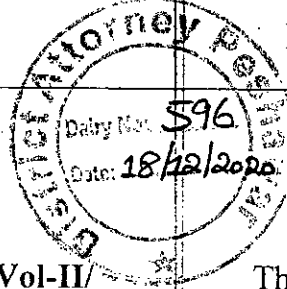

**NOOR MOHAMMAD KHATTAK
ADVOCATE**



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

7

ANNEXURE A



Dated Peshawar the 16th December, 2020

NOTIFICATION

SO(G)LD/15-11/2019-Vol-II/

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.	Mst. Wasima Jamil, DA (BS-19)	Solicitor, DG Law & HR	District Attorney Peshawar, relieving Mr. Noor Zaman, DA (BS-19) of additional charge of the post of District Attorney Peshawar.
2.	Mr. Noor Zaman, DA (BS-19)	District Attorney Labour Court Peshawar	District Attorney Service Tribunal Peshawar vice Sr. No.03.
3.	Mr. Usman Ghani, DA (BS-19)	District Attorney Service Tribunal Peshawar	District Attorney Labour Court Peshawar vice Sr. No.02.
4.	Mr. Jamshed Khan, DA (BS-19)	District Attorney Hangu	District Attorney D.I. Khan vice Sr. No.06.
5.	Mr. Mustafa Kamal, DA (BS-19)	District Attorney Tank	District Attorney Hangu vice Sr. No.04. He is also authorized to hold additional charge of the post of District Attorney Kurram in addition to his own duties.
6.	Mr. Tariq Aziz, DA (BS-19)	District Attorney D.I. Khan	District Attorney Tank vice Sr. No.05. He is also authorized to hold additional charge of the post of District Attorney South Waziristan in addition to his own duties.
7.	Mr. Salik Rauf, DA (BS-19)	District Attorney Haripur	District Attorney Abbottabad vice Sr. No.08.
8.	Mr. Muhammad Siddique, DA (BS-19)	District Attorney Abbottabad	District Attorney Mansehra vice Sr. No.10.
9.	Mr. Ghulam Mustafa, DA (BS-19)	District Attorney Tor Ghar	District Attorney Haripur vice Sr. No.07.
10.	Mr. Umar Farooq, DA (BS-19)	District Attorney Mansehra	District Attorney Tor Ghar vice Sr. No.09.
11.	Mr. Muhammad Daud Jan, DA (BS-19)	District Attorney Nowshera	District Attorney Charsadda vice Sr. No.15. He is also authorized to hold additional charge of the post of District Attorney Mohmand in addition to his own duties.
12.	Mr. Muhammad Zubair Khan, DA (BS-19)	District Attorney Shangla	District Attorney Kohistan Upper vice Sr. No.13. He is also authorized to look after the work of District Attorney Kolai Palas in addition to his own duties.
13.	Mr. Abdul Wakeel, DA (BS-19)	District Attorney Kohistan	District Attorney Battagram against the vacant post.
14.	Mr. Jamal Abdul Nasir, DA (BS-19 a.c.b)	District Attorney Malakand	District Attorney Swat, against the vacant post.

ATTACHED

8

15.	Mr. Noor Ullah, DA (BS-19 a.c.b)	District Attorney Charsadda	District Attorney Nowshera vice Sr. No.11.
16.	Mr. Masood UI Hassan, DA (BS-19 a.c.b)	SO (Opinion) Law Department	District Attorney Khyber against the vacant post.
17.	Mr. Tahir Iqbal, DDA (BS-18)	Deputy District Attorney Hangu	Solicitor, DG Law & HR in his own pay & scale vice Sr. No.01.
18.	Mr. Amir Qadir, DDA (BS-18)	Deputy District Attorney Swat	District Attorney Shangla in his own pay & scale vice Sr. No.12. He is also authorized to look after the work of District Attorney Kohistan Lower in addition to his own duties.
19.	Mr. Muhammad Jan, DDA (BS-18)	Deputy District Attorney Service Tribunal Peshawar	SO (Opinion) Law Department

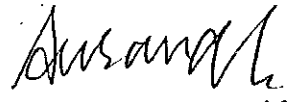
Secretary to Govt: of Khyber Pakhtunkhwa
Law, Parliamentary Affairs & Human
Rights Department

Endst: No. & Date Even:

Copy forwarded to the:-

12684-95

1. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
2. All Divisional Commissioners, Khyber Pakhtunkhwa.
3. Accountant General, Khyber Pakhtunkhwa.
4. Deputy Commissioner, Abbottabad, Battagram, Charsadda, D.I Khan, Hangu, Tank, Mansehra, Tor Ghar, Lakki Marwat, Peshawar, Kohat, Shangla, Nowshera, Haripur, Swat, Malakand, Khyber, Kurram, South Waziristan, Muhmand, Kolai Palas, Kohistan Upper & Kohistan Lower.
5. Director General, Law and Human Rights Khyber Pakhtunkhwa.
6. PSO to Chief Secretary, Khyber Pakhtunkhwa.
7. Registrar, Service Tribunal Peshawar.
8. District Account Officers concerned.
9. PS to Minister Law, Parliamentary Affairs and Human Rights Khyber Pakhtunkhwa.
10. PS to Secretary Law, Parliamentary Affairs and Human Rights Department.
11. PA to Deputy Secretary (Admn), Law Department.
12. Officers Concerned.
13. Personal files.

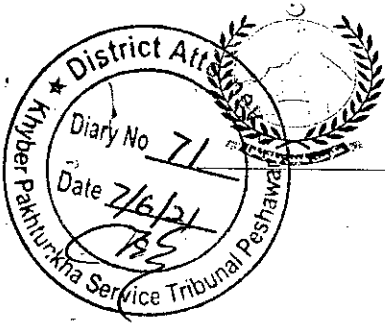

(AURANGZEB) 16/12/
Section Officer (General)

ATTACHED

ANNEXURE B 9

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

Dated: Peshawar the 03rd June, 2021



NOTIFICATION


No.SO(G)/(LD)15-11/2019-Vol-II/47-60 The Competent Authority is pleased to transfer Mr. Noor Zaman Khattak, District Attorney (BS-19) presently working as District Attorney, Service Tribunal Peshawar and direct him to report to Directorate General of Law and Human Rights, with immediate effect, in the interest of public service till further orders.

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

Endst: No. & Date Even:

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa.
2. Director General, Law and Human Rights Khyber Pakhtunkhwa.
3. Registrar, Khyber Pakhtunkhwa, Service Tribunal, Peshawar.
4. District Attorney, Khyber Pakhtunkhwa, Service Tribunal, Peshawar.
5. PSO to Chief Minister, Khyber Pakhtunkhwa.
6. PSO to Chief Secretary, Khyber Pakhtunkhwa.
7. PS to Minister for Parliamentary Affairs and Human Rights, Khyber Pakhtunkhwa.
8. PS to Minister for Law, Khyber Pakhtunkhwa.
9. PS to Secretary Law, Parliamentary Affairs and Human Rights Department.
10. PA to Additional Secretary (General), Law Department.
11. Officer concerned.
12. Personal file.


(AURANGZEB)
Section Officer (General)

ATTACHED

ARRIVAL REPORT

In compliance with the Secretary to Government of Khyber Pakhtunkhwa Law, Parliamentary Affairs and Human Rights Department Vide Order No. SO(G)LD/15-11/2019-Vol-II/49-60, dated 03-06-2021, I Mr. Noor Zaman Khattak, District Attorney (BPS-19) do hereby report in the Directorate General of Law & Human Rights today on 08-06-2021:

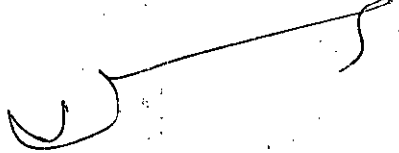
(NOOR ZAMAN KHATTAK)
District Attorney,
Khyber Pakhtunkhwa,
Service Tribunal Peshawar.

No. _____

Dated: __/__/2021

Copy forwarded to:

1. PS to Minister Law.
2. PS to Secretary Law, Parliamentary Affairs and Human Rights Department.
3. Director General, Directorate of Law & Human rights Khyber Pakhtunkhwa.
4. The Registrar Service Tribunal Peshawar.
5. Office copy.


District Attorney,
Khyber Pakhtunkhwa,
Service Tribunal Peshawar.



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

Dated Peshawar the 11th June, 2024

ANNEXURE D (11)

NOTIFICATION

SO GILD. 15.11.2019-Vol-III/11/11/11 The Competent Authority is pleased to authorize Mr. Usman Ghani, District Attorney (BS-19), Labour Court Peshawar to hold the additional charge of the office of District Attorney, Service Tribunal, Peshawar in addition to his own duties, till further orders.

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

Encls: No. & Date Even:

Copy forwarded to the:-

1. Advocate General, Khyber Pakhtunkhwa.
2. Accountant General, Khyber Pakhtunkhwa.
3. Registrar, Service Tribunal, Peshawar.
4. Director General, Law and Human Rights Khyber Pakhtunkhwa.
5. District Attorney office, Service Tribunal Peshawar/ Labour Court Peshawar.
6. Officer concerned.
7. PS to Minister for Law, Khyber Pakhtunkhwa.
8. PS to Secretary Law, Parliamentary Affairs and Human Rights Department.
9. PA to Deputy Secretary (Admin), Law Department.
10. Personal file.

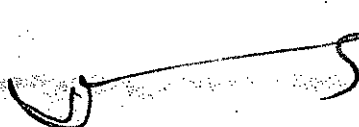
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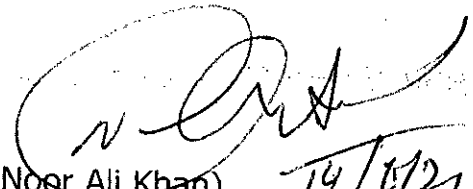
(Signature)
(AURANGZEB)
Section Officer (General)
SCANNED WITH CAMSC

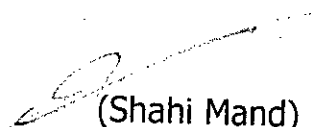
Subject: HANDING / TAKING OVER OF VEHICLE NO. AB-2422.

Vehicle bearing No. **AB-2422**, under use of Mr. Noor Zaman Khan Khattak, the then District Attorney Service Tribunal Peshawar, has been handed over to Mr. Shahi Mand, Care taker, Directorate General Law & Human Rights along with the following items (today on 14.06.2021).

1. Stumpny
2. Jack with Jack Danda
3. Wheel Pana
4. Speakers
5. Tape
6. Mats
7. Wheel cups


(Noor Zaman Khattak)
District Attorney
Handed over by


(Noor Ali Khan) 14/6/21
Deputy Director, Directorate General
Law & HR, Taken over by


(Shahi Mand)
Caretaker, Directorate General Law &
HR, Taken over by

ATTESTED

"ANNEXURE ..F"

13

Government of Khyber Pakhtunkhwa
Accountant General Khyber Pakhtunkhwa, Peshawar
Monthly Salary Statement (August-2021)



Personal Information of Mr NOOR ZAMAN KHAN d/w/s of QAMAR ZAMAN

Personnel Number: 00153165 CNIC: 1120180338517 NTN:
Date of Birth: 20.11.1965 Entry into Govt. Service: 12.03.2005 Length of Service: 16 Years 05 Months 021 Days

Employment Category: Active Temporary

Designation: SENIOR GOVERNMENT PLEADER 80003812-GOVERNMENT OF KHYBER PAKH
DDO Code: PR4007-DISTRICT ATTORNEY KP SERVICE TRIBUNAL PESHAWAR.

Payroll Section: 006 GPF Section: 003 Cash Center:
GPF A/C No: Interest Applied: Yes* GPF Balance: 748,597.00

Vendor Number: 30211136 - NOOR ZAMAN KHAN SENIOR GOVT: PLEADER DISTT:COURT CH

Pay and Allowances: Pay scale: BPS For - 2017 Pay Scale Type: Civil BPS: 19 Pay Stage: 9

Wage type		Amount	Wage type		Amount
0001	Basic Pay	86,660.00	1004	House Rent Allow 45% KP21	18,684.00
1518	Entertainment Allowance	500.00	1550	Special Allowance	20,000.00
1947	Medical Allow 15% (16-22)	3,117.00	2148	15% Adhoc Relief All-2013	1,870.00
2199	Adhoc Relief Allow @10%	1,409.00	2211	Adhoc Relief All 2016 10%	8,056.00
2224	Adhoc Relief All 2017 10%	8,666.00	2247	Adhoc Relief All 2018 10%	8,666.00
2265	Adhoc Relief All 2019 05%	4,333.00	2309	Adhoc Relief All 2021 10%	8,666.00
2315	Special Allowance 2021	11,842.00	5344	Adj. Special Allow 2021	23,684.00

Deductions - General

Wage type		Amount	Wage type		Amount
3019	GPF Subscription	-7,180.00	3501	Benevolent Fund	-1,500.00
3609	Income Tax	-12,755.00	4004	R. Benefits & Death Comp:	-1,600.00

Deductions - Loans and Advances

Loan	Description	Principal amount	Deduction	Balance
------	-------------	------------------	-----------	---------

Deductions - Income Tax

Payable: 150,951.60 Recovered till AUG-2021: 23,410.00 Exempted: 0.80- Recoverable: 127,542.40

Gross Pay (Rs.): 206,153.00 Deductions: (Rs.): -23,035.00 Net Pay: (Rs.): 183,118.00

Payee Name: NOOR ZAMAN KHAN

Account Number: 000014308-7

Bank Details: HABIB BANK LIMITED, 220898 POLICE ROAD, PESHAWAR. POLICE ROAD, PESHAWAR.. PESHAWAR

Leaves: Opening Balance: Aailed: Earned: Balance:

Permanent Address:

City: PESH

Domicile: NW - Khyber Pakhtunkhwa

Housing Status: No Official

Temp. Address:

City: PESH

Email: nzkhattak65@gmail.com

ATTESTED

ANNEXURE "G"

14

To

The Honourable Chief Minister,
Khyber Pakhtunkhwa, Peshawar.

(THROUGH PROPER CHANNEL)

Subject;

DEPARTMENTAL APPEAL AGAINST THE IMPUGNED NOTIFICATIONS DATED 03-06-2021 AND 11-06-2021 WHEREBY THE APPELLANT HAS BEEN PREMATURELY TRANSFERRED FROM SERVICE TRIBUNAL AND ONE NAMELY USMAN GHANI HAS BEEN POSTED AGAINST THE POST OF APPELLANT WITH ADDITIONAL CHARGE.

Respected Sir,

It is most humbly stated that the appellant is performing his duties as District Attorney in your good-self department quite efficiently, whole heartedly and up to the entire satisfaction of her high ups.

That while performing his duties the appellant was transferred to the post of District Attorney Service Tribunal vide notification dated 16-12-2020 and started his duties.

That the appellant took over the charge of the mentioned post and started performing his duties quite efficiently and with zeal and zest.

That vide impugned notification dated 03-06-2021 the appellant was prematurely transferred from his post and was directed to report to the Directorate General of Law and Human Rights in utter violation of the transfer posting policy of the government. Furthermore the vide impugned notification dated 11-06-2021 one namely Usman Ghan has been transferred against the post of appellant with having additional charge of the instant post.

It is, therefore, most humbly prayed that on acceptance of this Departmental appeal the impugned notifications dated 03-06-2021 and 11-06-2021 may very kindly be set aside and the appellant may not be disturb through the impugned notifications.

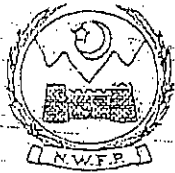
Dated: 14.06.2021

APPELLANT

NOOR ZAMAN KHATTAK
DISTRICT ATTORNEY UNDER
TRANSFER TO DIRECTORATE
GENERAL OF LAW AND HUMAN
RIGHTS

ATTESTED

Posting - Transfer Policy - updated till 10-Jan, 2009



GOVERNMENT OF NWFP
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT
(Regulation Wing)

POSTING / TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT

- i) All the posting/transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants
- ii) All Government servants are prohibited to exert political, Administrative or any other pressures upon the posting/transfer authorities for seeking posing/transfers of their choice and against the public interest.
- iii) All contract Government employees appointed against specific posts, can not be posted against any other post.
- iv) The normal tenure of posting shall be three years subject to the condition that for the officers/officials posted in unattractive areas the tenure shall be two years and for the hard areas the tenure shall be one year. The unattractive and hard areas will be notified by the Government.
- v) While making postings/transfer from settled areas to FATA and vice-versa, specific approval of Governor, NWFP needs to be obtained.
- vi) While making postings/transfers of officers/officials up to BS-17, from settled areas to FATA and vice-versa approval of the Chief Secretary NWFP needs to be obtained. Whereas, in case of posting/transfer of officers in BS-18 and above, from settled areas to FATA and vice versa, specific approval of the Governor NWFP shall be obtained.
- vi (a) All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for at least eighteen months in each grade. This should start from senior most scales/grades downwards in each scale/grade of each cadre.
- vii) Officers may be posted on executive/administrative posts in the Districts of their domicile except District Coordination Officers (D.C.Os) and DPOs/Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at the place where the Police Station (Thaana) of his area/residence is situated.
- viii) No posting/transfers of the officer's/officials on detachment 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.

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

ATTACHED

16



- 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
DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales;
- xii) In terms of Rule-17(1) and (2) read with Schedule-III of the NWFP Government Rules of Business 1985, transfer of officers shown in column 1 of the following table shall be made by the authorities shown against each officer in column 2 thereof:

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

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

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

ATTESTED

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

i) Pre-mature posting/transfer or posting transfer in violation of the provisions of this policy.

ii) Serious and grave personal (humanitarian) grounds.

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

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

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

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

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

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

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

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

ATTACHED

VAKALATNAMA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO: _____ OF 2021

Noor Zaman Khattak (APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Law Deptt. (RESPONDENT)
(DEFENDANT)

I/We Noor Zaman Khattak
Do hereby appoint and constitute **NOOR MUHAMMAD KHATTAK Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. 24 / 9 / 2021

CLIENTS

ACCEPTED

NOOR MUHAMMAD KHATTAK

KAMRAN KHAN

UMER FAROOQ MOHMAND

SAID KHAN

HAIDER ALI
ADVOCATES

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR

APPEAL NO. 7259/2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 7457

Date: 20-8-2021

Mr. Noor Hassan, (TC BS-19),
District Education Officer Mohmand under transfer to Directorate of E&SE,
Peshawar for further posting.

.....**APPELLANT**

VERSUS

- 1- The Chief Secretary Government of Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary (E&S) Education Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director (E&S) Education Department, Khyber Pakhtunkhwa, Peshawar.
- 4- Mr. Sultan Muhammad Principal GHSS Ghalani, Mohmand under transfer to District Education Office Mohmand.

.....**RESPONDENTS**

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 29-06-2021 WHEREBY THE APPELLANT HAS BEEN TRANSFER FROM THE POST OF DISTRICT EDUCATION OFFICER MOHMAND TO THE DIRECTORATE OF E&SE IN UTTER VIOLATION OF TRANSFER POSTING POLICY AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD.

PRAYER:

That on acceptance of this appeal the impugned order dated 29-06-2021 may very kindly be set aside and the respondents may kindly be directed not transfer the appellant from the post of Distract Education Officer, District Mohmand. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

R/SHEWETH:

ON FACTS:

Brief facts giving rise to the present appeal are as under:-

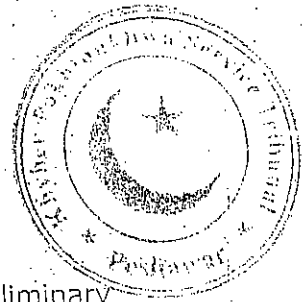
- 1- That appellant is a law abiding and peaceful citizen serving the respondents department since 01-09-1985 and is at the verge of retirement

S.A No. 7259/2021

14.09.2021

Counsel for the appellant present. Preliminary arguments heard.

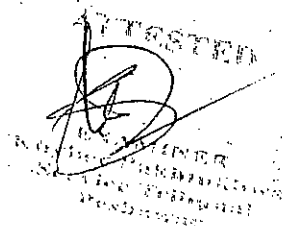
The appellant being aggrieved from his transfer made vide order dated 29.06.2021 submitted departmental appeal to the Chief Secretary Khyber Pakhtunkhwa on 01.07.2021 against his premature transfer and having got no response on his appeal, he preferred this appeal on 20.08.2021. Perusal of record in light of preliminary arguments would reveal that the appellant was posted as District Education Officer, Mohmand vide order dated 22.09.2020. Copy of the letter of Mr. Sajid Khan Mohmand MNA/Chairman Standing Committee on State & Frontier Region addressed to the Minister for Education Khyber Pakhtunkhwa has been annexed with the Memorandum of appeal. Accordingly, the Worthy MNA requested to the Minister for adjustment of respondent No. 4 as DEO Mohmand in place of appellant as the later is not working as per his directives. The impugned order would reveal that the transfer order is fully compatible with the request of MNA. Unless rebutted, there is strong presumption that the transfer of the appellant is the result of political interference which is manifestly against the Transfer/Posting Policy of the Government of Khyber



Pakhtunkhwa and pronouncements of Superior Courts, besides its being against the tenure under the same policy. Let this appeal be heard by D.B on merits. Therefore, this 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 in office within 10 days of the 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 is directed to submit the file with a report of non-compliance. File to come up for arguments on 12.10.2021 before the D.B.

An application has been submitted alongwith memorandum of appeal for suspension of operation of impugned notification dated 29.06.2021 till disposal of the appeal. Notice of the application be also given to the respondents. The operation of the impugned notification shall remain suspended till date fixed and if the appellant has been relieved from the post of DEO(M) Mohmand, ante-status quo be restored.



Chairman


District Bench, Mohmand
12/10/2021

Note

14.09.2021

Mr. Sultan Muhammad, D.E.O (Male) Mohmand (respondent No. 4) is present on his own and has made submissions against the filing of appeal by appellant. As he is present before the Tribunal, notice of this appeal is served upon him with the direction that he may file his written reply on the date already fixed i.e. 12.10.2021.



Chairman

Date of Filing of Appeal: 14/9/21
Number of Words: 1500
Copying Fee: 18/-
Copy: 4/5
Type: 22/-
Name of Applicant: _____
Date of Filing of Appeal: 14/9/21
Date of Filing of Reply: 14/9/21

Certified to be true copy
KABIR
KABIR RASHID
Service Tribunal
Peshawar

SUMMARY FOR CHIEF MINISTER

Subject: **POSTING TRANSFER OF DISTRICT ATTORNEY OF LAW DEPARTMENT-CONFIRMATION.**

On the verbal directions of the Competent Authority, Law, Parliamentary Affairs and Human Rights Department has transferred Mr. Noor Zaman Khattak, District Attorney (BPS-19), Khyber Pakhtunkhwa Service Tribunal, Peshawar and directed him to report to Directorate General of Law and Human Rights, Peshawar on 03-06-2021 (**Annex-I**).

02. In terms of Rule 5 (8) read with Rule-17 (1) read with Serial No. 03 of Schedule-III of the Government of Khyber Pakhtunkhwa Rules of Business, 1985 (**Annex-II**), Notification placed at (**Annex-I ibid**) is submitted to the Hon'ble Chief Minister, Khyber Pakhtunkhwa for confirmation/approval of posting/ transfer of the above mentioned officer, please.


(MASOOD AHMAD)
SECRETARY LAW

MINISTER FOR LAW

CHIEF SECRETARY

CHIEF MINISTER

<p>18.</p>	<p>Service Tribunal, Peshawar</p>	<p>34.00254740507332, 71.54585380415735</p>	
<p>19.</p>	<p>District Attorney, Malakand</p>	<p>34.60812336267461, 71.95289613161519</p>	
<p>20.</p>	<p>District Attorney, Torghar, kpk</p>	<p>34.50134789735186, 73.0177335464939</p>	
<p>21.</p>	<p>District Attorney, Haripur, kpk</p>	<p>33.98631160298398, 72.90221846435107</p>	

16/11

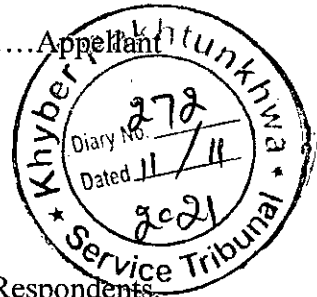
IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

In respect of Service Appeal No.7446/2021

Mr. Noor Zaman Khattak, District Attorney (BPS-19), Service Tribunal Peshawar under transfer to Director General of Law & Human Rights Peshawar.

VERSUS

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



JOINT PARAWISE REPLY TO APPLICATION FOR SUSPENSION ON BEHALF OF RESPONDENTS NO.01-04.

Respectfully Sheweth.

PRELIMINARY OBJECTIONS:

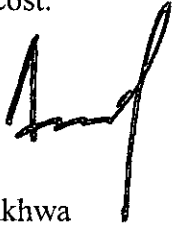
1. That no cause of action or locus standi lies with appellant/petitioner for filing of application, therefore application may be dismissed.
2. That the instant application is not maintainable in its present form.
3. That the present application is not maintainable due to non-joinder and mis-joinder of necessary parties.
4. That the applicant has concealed the material facts from this Hon'ble Tribunal.
5. That this Hon'ble Tribunal has got no jurisdiction to entertain the instant application.
6. That the appellant is estopped by his own conduct.
7. That under Article 248 of the Constitution, the Chief Minister is exempted from answering any court for the exercise of powers & performance of functions of respective offices. Hence the appeal is not tenable.

On facts

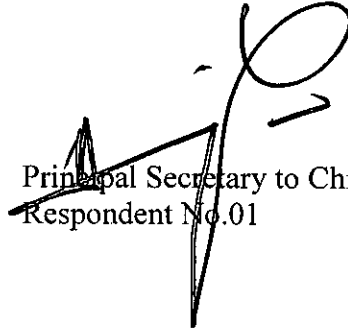
1. Para-01 of the application pertains to record of the Service Tribunal.
2. Para-02 also pertains to record of the Service Tribunal.
3. Para-03 incorrect, hence denied. None of the ingredients for stay lies in favour of the applicant. By the impugned notification of transfer none of the right of the applicant has been violated. Neither prima facie case exist in his favour nor balance of convenience lies in his favour. Moreover, there has occurred no irreparable loss to the applicant due to impugned notifications.
4. Incorrect, hence denied, the impugned notification of transfer has been issued with the approval of the Competent Authority. It is the liability of civil servant to be transferred anywhere in the Province of Khyber Pakhtunkhwa by the Competent Authority in terms of Section-10 of the Khyber Pakhtunkhwa Civil Service Act, 1973. Therefore, the application is liable to be dismissed.

Prayer:

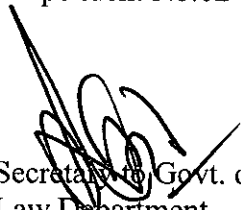
It is therefore, most humbly prayed that on acceptance of this parawise reply, the instant application for suspension being devoid of legal footings and merits may graciously be dismissed with cost.



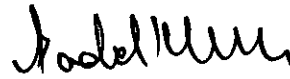
Chief Secretary
Khyber Pakhtunkhwa
Respondent No.02



Principal Secretary to Chief Minister
Respondent No.01



Secretary to Govt. of Khyber Pakhtunkhwa
Law Department.
Respondents No.03



Director General,
Law & Human Rights.
Respondent No.04

774

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.7446/2021

Mr. Noor Zaman Khattak, District Attorney (BPS-19), Service Tribunal Peshawar under transfer to Director General of Law & Human Rights Peshawar.

.....Appellant

VERSUS

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

.....Respondents.

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

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 the appellant has concealed the material facts from this Hon'ble Tribunal.
5. That this Hon'ble Tribunal has got no jurisdiction to entertain the instant appeal.
6. That the appellant is estopped by his own conduct.
7. That under Article 248 of the Constitution, the Chief Minister is exempted from answering any court for the exercise of powers & performance of functions of respective offices. Hence the appeal is not tenable.

On facts:

1. Para-01 is correct to the extent that the appellant is employee of Law Department and as regard the assertion of the appellant regarding efficiencies, the service of the appellant has not been upto the mark. The appellant has a chequered history and was proceeded departmentally on the complaints from different quarters. The entire service history of the appellant is full of explanations, inquiries, warnings & Show Cause Notices. Some of which are reproduced as under; namely,
 - a. complaint of Mr. Ahmad Sultan dated 14.06.2010. (Annex-A)
 - b. warning for absence from Duty dated 16.09.2013. (Annex-B)
 - c. explanation called by Deputy Commissioner Chitral dated 26.11.2013. (Annex-C)
 - d. Civil court Chitral order dated 07.11.2013. (Annex-D)
 - e. explanation for willful absence dated 27.11.2013. (Annex-E)
 - f. explanation dated 05.12.2013. (Annex-F)
 - g. letter of Deputy Commissioner Chitral on the subject explanation dated 12.02.2014. (Annex-G)

- h. penalty for withholding of 03 increments for three years dated 12.03.2015. **(Annex-H)**
 - i. penalty for withholding of 03 increments for three years 23.10.2017. **(Annex-I)**
 - j. explanation/training dated 21.07.2016. **(Annex-J)**
 - k. warning dated 05.10.2020. **(Annex-K)**
2. Pertains to record.
 3. Para No.03 is incorrect. The appellant has poor performance and he could not assist the court properly since posting till the suspension of order and could not protect the interest of the government. He hardly appeared in court cases before Service Tribunal. Keeping in view the poor performance of the appellant, the government of Khyber Pakhtunkhwa transferred the appellant in the best public interest.
 4. Pertains to record.
 5. Keeping in view the performance of the appellant the Competent Authority has authorized respondent No.05 to hold the additional charge of the office of District Attorney Service Tribunal in addition to his own duties, till further orders vide Notification dated 11.06.2021.
 6. Para No.06 is incorrect. The perks and privileges are associated with the post, as the appellant is not holding the post, therefore, he is not entitled to the perks and privileges of the post.
 7. The salary of the appellant has not been stopped by taking lenient view in pursuance of the principles set out by the Superior Courts.
 8. Pertains to record.
 9. 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.

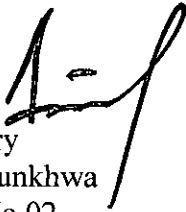
Grounds:

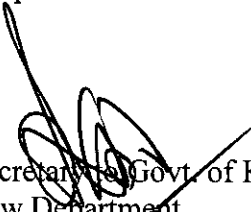
- A) Incorrect, hence denied. As stated above, due to poor performance and chequered history of the appellant in Service Tribunal, the Competent Authority has transferred the appellant under Section-10 of the Khyber Pakhtunkhwa Civil Service Act, 1973.
- B) Denied. No discrimination or injustice has been done against the appellant nor any violation of constitution has been made. The appellant was transferred due to poor performance.
- C) Incorrect, hence denied. No violation of any para of Posting/Transfer Policy has been committed by the respondents rather the transfer order was issued in order to streamline the court work at Service Tribunal.
- D) Incorrect, hence denied. Malafide and arbitrariness cannot be attributed to the Competent Authority. The transfer is in accordance with law, rules and posting/transfer policy of Provincial Government.
- E) Incorrect, hence denied, the impugned notification of transfer has been issued with the approval of the Competent Authority.

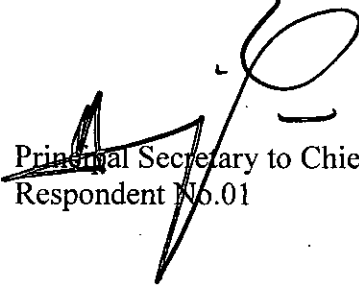
- F) Incorrect, hence denied, assignment of additional charge to the respondent No.05 was an administrative arrangement and in accordance with the Appointment, Promotion and Transfer Rules, 1989. It is important to mention that respondent No.05 has managed to conduct around 80 Nos. of cases before Service Tribunal and caused a betterment in just 04 months.
- G) The respondent has taken a lenient view in the instant case as per principle set out by the superior courts that no one should be deprived of his salary.
- H) Incorrect, hence denied. As explained in Para-03, in view of such unpleasant situation the transfer order was issued. Moreover the department makes its own administrative arrangement time to time and in accordance with the Appointment, Promotion and Transfer Rules, 1989.
- I) Incorrect, hence denied. The impugned notifications have been issued due to poor performance/exigency of service according to law.
- J) Incorrect, hence denied.


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.02


Secretary to Govt. of Khyber Pakhtunkhwa
Law Department.
Respondents No.03


Principal Secretary to Chief Minister
Respondent No.01


Director General,
Law & Human Rights.
Respondent No.04

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No.7446/2021 titled Mr. Noor Zaman Khattak, District Attorney (BPS-19), Service Tribunal Peshawar under transfer to Director General Law & Human Rights Peshawar. Appellant

Versus

Government of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa & 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.03 is true and correct to the best of my knowledge and belief that nothing has been concealed from this Hon'ble Court.

Deponent

NW
11/11/21

CNIC No. *7301-9113868-5*

Cell No. *0331-9222681*

Identified By;

[Signature]

Additional Advocate General
Service Tribunal Khyber Pakhtunkhwa, Peshawar
Additional Advocate General
Khyber Pakhtunkhwa
Service Tribunal Peshawar

ATTESTED
[Signature]
11-11-2021

کریک جھانچیل میں قلندر علی خان صاحب سروس ٹریڈنگ کمپنی پشاور صدر کونسل

درخواست برائے کاروائی پر خلاف زور زمانہ قدر
گوٹمنٹ بلڈر (سہ کارگی دین)

جنا سالی

موردبان گورنمنٹ کی جاتی ہے کہ میں نے کافی عرصہ
میں زور زمانہ بلڈر کو مخالف پارٹیوں سے کیوں میں رشتوں بنتے ہوئے
دیکھا ہے۔ اور پھر وہی کیوں کو علالت میں ناجائز/ غیر قانونی کی بجائے
قانونی بنانے کی کوشش کرتا ہے جس سے عزیز اور نادار اور متاثرہ ملازمین
کی حق تلفی ہوتی ہیں۔ وہ رشتوں کے عوض ناجائز کام جائز بنادیتے ہیں۔

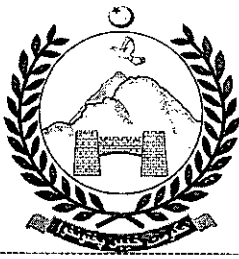
صاحب سالی! آج کل ایم پی ایس ایم این اے اور صدر زور کا دور ہے
وہ جو کچھ کرنا چاہتا ہے۔ قصلت EDD کے ذریعے کرنا شروع کرتا
ان سے بوجھنے والا کوئی نہیں ہوتا۔ اسلئے متاثرہ لوگ اقبالیہ اور میں یا
سروس ٹریڈنگ آتے ہیں تاکہ انھیں انصاف مل سکے تاکہ ان کے زور زمانہ
بلڈر (سہ کارگی دین) کرپشن اور رشتوں اور لاپرواہی سے نجات پائیں

انصاف نہیں ملتی۔ کیونکہ اسٹوائٹ ٹریڈنگ میں جو لوگ اسے سہاوتی کر رہے ہیں اور
ایڈوانس دے دیتے ہیں۔ وہ ان کے قبضے کرنے پر زور دیتے ہیں۔ جو وہ وہ جائز
ہو یا ناجائز۔ اسی طرح آخر حد سروس ٹریڈنگ میں میں متاثرہ لوگ انصاف
حاصل کرنے میں ناکام رہے ہیں۔ تو متاثرہ لوگ ان کی سے انصاف حاصل کرنے
اسلئے اب وہاں کے خلاف کارروائی کی جا رہی ہے تاکہ زور زمانہ سروس ٹریڈنگ سے فتنہ
کرنے والے خلاف قانونی کارروائی کی جائے تاکہ ان سے جو لوگ کوئی نہ مل سکیں

آپ کا جناتی
محمد علی

- 1 جناب عجاز احمد صاحب
- 2 جناب وزیر اعلیٰ صاحب
- 3 جناب عبدالجلیل صاحب
- 4 جناب منظور صاحب

محمد



135

(B)

Regd/13

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

No: E & A (LD) 36(PF)/SGP/2012/8892-93
Dated: Peshawar the 16.09.2013.

To

Mr. Noor Zaman,
Senior Government Pleader,
Chitral.

Subject: **ABSENCE FROM DUTY.**

Memo:

Please refer to the subject noted above.

2. It has been observed and come to notice of Secretary Law that you are absent from duty for the last two weeks without prior permission of this Department. It means that you are absent since taking over charge of your post w.e.f 07.08.2013 and running your office through remote control from Peshawar. Meanwhile Mr. Anwarul Haq, Government Pleader of your office was contacted by Secretary Law with the direction to inform you to be present in your office by 16th instant.
3. In response you submitted an application for casual leave in the office of Secretary Law at Peshawar which was regretted (Copy enclosed).
4. You are therefore, directed to attend your duty w.e.f 16.09.2013 without fail. Otherwise strict disciplinary action will be initiated against you in the light of Khyber Pakhtunkhwa Civil Servant (Efficiency & Disciplinary) Rules, 2011.

This must be treated as last warning before proceeding against you.

Yours faithfully

yc *M*
(IMRAN KHAN)
Section Officer (General)

Endst.No & Date Even.

Copy is forwarded to the PS to Secretary Law, Parliamentary Affairs & Human Rights Department.

yc *M*
Section Officer (General)

e

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167

9313
3/12/13

DEPUTY COMMISSIONER
CHITRAL

No. _____ /DM/DC
Dated Chitral the 28/11/2013

To:

The Government Pleader,
Chitral

Sub:

EXPLANATION.

Enclosed please find herewith photo copy Order Sheet Para 18 dated 07/11/2013, received from Civil Judge/IQ-1 Chitral, which is self explanatory, with the direction to explain your position for not attending the court to safeguard the state interest as the learned Civil Judge Chitral has taken serious view of the matter.

DEPUTY COMMISSIONER
CHITRAL

No. 914-15 /DM/DC
along with order sheet
Copy forwarded to:

1. The Secretary Law, Parliamentary Affairs and Human Rights Department, Government of Khyber Pakhtunkhwa, Peshawar for information and necessary action please.
2. The Civil Judge/IQ-1 Chitral with reference to his court Order Sheet No:229/IQ-1 dated 08/11/2013 for information please.

DEPUTY COMMISSIONER
CHITRAL

1/11/13

D.C

161
142

9818
3/12/13

DEPUTY COMMISSIONER
CHITRAL

No. _____ /DM/DC
Dated Chitral the 26/11/2013

To:

The Government Pleader,
Chitral

Sub:

EXPLANATION.

Enclosed please find herewith photo copy Order Sheet Para 18 dated 07/11/2013, received from Civil Judge/IQ-1 Chitral, which is self explanatory, with the direction to explain your position for not attending the court to safeguard the state interest as the learned Civil Judge Chitral has taken serious view of the matter.

DEPUTY COMMISSIONER
CHITRAL

No. 914-15 /DM/DC
along with order sheet
Copy forwarded to:

1. The Secretary Law, Parliamentary Affairs and Human Rights Department, Government of Khyber Pakhtunkhwa, Peshawar for information and necessary action please.
2. The Civil Judge/IQ-1 Chitral with reference to his court Order Sheet No.229/IQ-1 dated 08/11/2013 for information please.

DEPUTY COMMISSIONER
CHITRAL

A/CG

please call explanation
of SGP Chitral and issue

[Signature]

3/12/13

letter today with
a copy to DC Chitral

pl. put up DFA now.

DS (A)

SGP

[Signature]
3/12/13

18
03/12/13

Cas. No. 99/1

Title

Handwritten title in Urdu: *الحق و انصاف کے لئے*

(A)

Handwritten text: *امان اللہ*

Handwritten numbers: 143, 143

Serial No
Date of
Order

Order or other Proceedings with signature of Judge or Magistrate and that of parties or counsel where necessary.

حکم نمبر / تاریخ

0-----18
07/11/2013

Plaintiff present in person with counsel while nemo present on behalf of the defendants. On last date, the plaintiff's evidence was available but neither any defendants' representative was present nor was the same recorded due to absence of the GP so he was put on notice. The notice issued returned with the report that the office/KPO to the Senior Government Pleader has categorically refused to receive the notice on the sole pretext that the SGP is at Peshawar. The concerned KPO was called on. He appeared who on query replied that the SGP while going home has directed him not to receive any kind of court notices/summons rather he shall receive the same on his arrival to Chitral. The statement of the KPO namely Hayat Muhammad Khan was also recorded wherein he endorsed the factum of refusal of notice issued to the government pleader's office Chitral on the ground of being so directed by the SGP. In this scenario, since neither any of the defendants or their representative is in attendance nor is the SGP interested to pursue the case rather his office has refused to receive the notice, therefore, the defendants are proceeded ex-parte. It is noted with concern that the KPO of the GP Office has not received the notice issued to the SGP at the instance of SGP which leads this court to the conclusion that the state interest are at stake in government cases which necessitates provision of additional government pleaders by the DC, Chitral to properly safeguard the state interest besides to issue directions to the representatives to pursue the government cases by proper representation so that the state interest may not be at stake in future. Copy of this order be sent to the DC Chitral for information & necessary action. Plaintiff is allowed to lead his ex-parte evidence. File to come up for plaintiff's evidence on 12.11.2013.

Handwritten date: 12/11/2013
Handwritten number: 4401

Handwritten notes:
No 229/2013 Dated: 8.11.2013
copy forwarded to the
DC Chitral for information and order.

ANNOUNCED
07/11/2013

Issued from Reg. Record
Original Copy
11/11/13

(MUHAMMAD ISHAQ KHAN)
Civil Judge (Magistrate-I)
(MUHAMMAD ISHAQ KHAN)
Civil Judge (MAQA QAZI-I,
Chitral.

Diary No. 49
File No. Noti. file
Date 18/11/2013
DM Office Chitral

Received
Explanation may
be seen through
D.C. Chitral

Handwritten signature and date: 12/11/13

E

124

Registered

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

No. E&A/LD/2-78(P/F)/2008/23999-2400
Dated, Peshawar 27th Nov, 2013

To

Mr. Noor Zaman,
Senior Government Pleader,
Chitral.

Residential
Address:-


Kotka Sard Ali Khan, Jadid Abad, Sarai Naurang, District Lakki Marwat

Subject:

Explanation

It has been observed with great concern that on 21/11/2013, you were contacted on your official telephone number by the high-ups during office hours but you found absent without prior permission / approval of the competent authority.

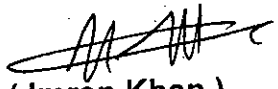
You are hereby directed to explain your position of the willful absence within 03 days after receipt of this letter, failing which, stern disciplinary action would be initiated against you under the E&A rules, 2011.


(Imran Khan)
Section Officer (General)
Law Department

Endst. No: E&A/LD/2-78(P/F)/2008.

Copy forwarded to:-

1. The PS to the Secretary Law Department.
2. The Senior Government Pleader Office, Chitral.


(Imran Khan)
Section Officer (General)
Law Department

ok

issued

03/12-13.



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

No. E&A/LD/1-1(P/F)GP/2010-2424
Dated: 5th Dec, 2013

To

Mr. Noor Zaman,
Senior Government Pleader, Chitral.

Subject: **EXPLANATION:**

I am directed to refer to the subject noted above and to state that the learned Civil Judge/IQ-1 has taken serious notice that you have not attended/perused the court in the case titled Aman ul mulk VS Incharge teacher etc to safeguard the state interest. The copy of DC Chitral letter No.914-15/DM/DC dated 26-11-2013 along with order sheet dated 07-11-2013 is enclosed.

You are hereby directed to explain your position that why disciplinary action should not be initiated against you. Your reply should reach this office within three days.

Endst No: E&A/LD/1-1(P/F)GP/2010.

Copy forwarded to:

1. The PS to Secretary Law Department
2. The learned Civil Judge/IQ-1, Chitral
3. The Deputy Commissioner, Chitral

(Imran Khan)
Section Officer (General)
Law Department

Section Officer (General)
Law Department

dc

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

No. E&A/LD/1-1(P/F)GP/2010-24291-
Dated: 5th Dec, 2013

94

To

Mr. Noor Zaman
Senior Government Pleader, Chitral.

Subject: **EXPLANATION:**



I am directed to refer to the subject noted above and to state that the learned Civil Judge/IQ-1 has taken serious notice that you have not attended/perused the court in the case titled Aman ul mulk VS Incharge teacher etc. to safeguard the state interest. The copy of DC Chitral letter No.914-15/DM/DC dated 26-11-2013 along with order sheet dated 07-11-2013 is enclosed.

You are hereby directed to explain your position that why disciplinary action should not be initiated against you. Your reply should reach this office within three days.

Endst. No. E&A/LD/1-1(P/E)GP/2010.

Copy forwarded to

1. The PS to Secretary Law Department.
2. The learned Civil Judge/IQ-1, Chitral
3. The Deputy Commissioner, Chitral

Mu
(Imran Khan)
Section Officer (General)
Law Department

Mu
Section Officer (General)
Law Department



DC

DEPUTY COMMISSIONER
CHITRAL

No. 101 /R/DM/DC
Dated Chitral the 12/2 /2014

1813
20/2/2014
158 G

To:

The Secretary Law, Parliamentary Affairs & Human Rights
Department, Khyber Pakhtunkhwa,
Peshawar.

Sub:

EXPLANATION.

Plases refer to this Office memo No.913/DM/DC dated 26/11/2013 addressed to Government Pleader, Chitral with copy to your good Office among others on the subject cited above.

It is evident from your letter No.E&A/LD/1-1(P/F)/2010 dated 5th Dec,2013, that the Officer concerned has been directed to explain his position by your good self , but, neither he has responded nor reported for duty till yet, resultantly, huge number of cases subjudice in various courts cannot be defended. Moreover, this act of Government Pleader is against the very spirit of your letter /instruction (lack of interest in defending the court cases by the Administrative Departments) vide letter No. SLT/LLD/1-1(instruction)/2014/96-63 dated 16-1-2014. The Honorable courts time and again directed this office to ensure presence of Government Pleader in the courts in the next hearing or personally attend the courts vide order sheet No.0-7 dated 04/02/2014 and No.0-16 dated 01/02/2014(photo copies enclosed for ready reference).

Keeping in view of the importance of court matters, it is requested that Mr. Hazrat Ali Shah presently posted SGP at Dir Upper being local Officer may please be transferred and posted as SGP to Chitral District or make alternate arrangement as early as possible so that the Government interest involved in cases could be defended accordingly.


Deputy Commissioner
Chitral

No. _____ /R/DM/DC dated Chitral the ____ / ____ /2014.

Copy forwarded for information to:

1. The Commissioner Malakand Division, Saidu Sharif, Swat.
2. The Additional District & Session Judge Chitral.

Deputy Commissioner
Chitral

20.2.14

Acop For missing pls.
Supt.

JS (A)

23/2

Sd/G

①
21/2

21/02/14

30/1/14

1/1/14

1/1/14



186

208 H

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

Dated Peshawar the March 12, 2015.

NOTIFICATION

NO.SO(G)/LD/1-13/2014/PF: WHEREAS Mr. Noor Zaman ex-Senior Govt: Pleader (BS-19) Chitral, Law, Parliamentary Affairs and Human Rights Department now Director Human Rights Khyber Pakhtunkhwa was proceeded against under the Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules, 2011.

2. **AND WHEREAS**, inquiry committee was constituted comprising the following officers to conduct formal Inquiry against the accused officer.

- i. Mr. Muhammad Fahim Wazir (PAS-BS-20), Commissioner Afghan Refugees,
- ii. Mr. Azmat Ullah, Section Officer (Opinion) Law, Parliamentary Affairs and Human Rights Department

3. **AND WHEREAS**, the Inquiry committee after having examined the charges, evidence on record and explanation of the accused officer has submitted the report.

4. **AND WHEREAS**, the Competent Authority afforded the opportunity of personal hearing to the accused officer.

5. **NOW, THEREFORE**, the Competent Authority, after having considered the charges, evidence on record, the explanation of the accused officer and defense offered by the accused officer during personal hearing and exercising his powers under Rule-14 of Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules, 2011 has been pleased to impose penalty of "withholding of three increments for three years" upon Mr. Noor Zaman ex- Senior Govt: Pleader (BS-19) Chitral, Law, Parliamentary Affairs and Human Rights Department now Director Human Rights Khyber Pakhtunkhwa with immediate effect.

SECRETARY
To Govt: of Khyber Pakhtunkhwa,
Law, Parliamentary Affairs and Human
Rights Department

Endst: of Even No. & Date: 16466-75

Copy forwarded to the: -

- 1- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2- Principal Secretary to Chief Minister Khyber Pakhtunkhwa Peshawar.
- 3- Director, Human Rights Khyber Pakhtunkhwa.
- 4- PS to Chief Secretary Khyber Pakhtunkhwa, Peshawar.
- 5- Senior Government Pleader, Chitral.
- 6- District Accounts Officer, Chitral.
- 7- PS to Secretary Establishment Department Khyber Pakhtunkhwa.
- 8- PS to Secretary Law Department Khyber Pakhtunkhwa.
- 9- Officer concerned.
- 10- The Manager, Govt Printing Press, Peshawar.


(AKBAR KHAN)
Section Officer (General)

I ~~226~~

To be substituted with the Notification bearing same No dated 18.10.2017



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

Dated Peshawar the October 23th, 2017.

NOTIFICATION

NO.SO(G)/LD/1-13/2014/PF/28778-85

WHEREAS Mr. Noor Zaman Khattak District Attorney (BS-19) Ex Director Human Rights, Presently working as District Attorney Labour Court Peshawar was proceeded against under the Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules, 2011.

2. **AND WHEREAS**, Mr. Adil Saddique, (PCS EG BS-20), Director General, Prosecution, Govt: of Khyber Pakhtunkhwa was appointed enquiry officer to conduct inquiry against the accused officer.

3. **AND WHEREAS**, the Inquiry officer after having examined the charges, evidence on record and explanation of the accused officer has submitted the report.

4. **AND WHEREAS**, the competent authority afforded the opportunity of personal hearing to the accused officer on 26-09-2017 at 02:00 PM.

5. **NOW, THEREFORE**, the Competent Authority, after having considered the charges, evidence on record, the explanation of the accused officer and defense offered by the accused officer during personal hearing and exercising his powers under Rule-14 of Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules, 2011 has been pleased to impose minor penalty of **withholding three increments for three years** upon Mr. Noor Zaman Ex Director Human Rights, Presently working as District Attorney Labour Court Peshawar with immediate effect.

SECRETARY
Govt: of Khyber Pakhtunkhwa,
Law, Parliamentary Affairs and Human
Rights Department

Endst: of Even No. & Date:

Copy forwarded to the: -

- 1- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2- Principal Secretary to Chief Minister Khyber Pakhtunkhwa Peshawar.
- 3- PS to Chief Secretary Khyber Pakhtunkhwa, Peshawar.
- 4- PS to Secretary Establishment Department Khyber Pakhtunkhwa.
- 5- PS to Secretary Law Department Khyber Pakhtunkhwa.
- 6- Officer concerned.
- 7- The Manager, Govt Printing Press, Peshawar.
- 8- Personal file.

Momin Khan
(Momin Khan)
Section Officer (General)



209 ~~199~~ 199
346

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

No. SO (G)(LD)/1-13/2014/PF/15713-16
Dated: Peshawar the, June 10, 2015

To

Mr. Noor Zaman,
Ex-Senior Govt. Pleader, Chitral
Now Director, Human Rights Khyber Pakhtunkhwa

Subject: REVIEW PEITION AGAINST ORDER NO. SO (G)LD/1-13/2014/PF
DATED 12/03/2015 WHEREIN PETITIONER HAS BEEN AWARDED
PENALTY OF STOPPAGE OF THREE ANNUAL INCREMENTS FOR A
PERIOD OF THREE YEARS.

I am directed to refer to your review petition dated 24-03-2015 on the
subject noted above and to inform that the Competent Authority (Chief Minister, Khyber
Pakhtunkhwa) has perused your review petition and rejected the same for having no
substance.

AK
(Akbar Khan)
Section Officer (General)

Endst: of even No. & Date:

Copy is forwarded for information to:-

1. The PS to Secretary Law Department.

AK
Section Officer (General)

See P-333



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

No: E&A/LD/2-58/2016 29666-68
Dated: Peshawar, the 21/07/2016

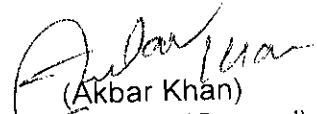
To
Mr. Noor Zaman Khattak,
Director, Human Rights,
Khyber Pakhtunkhwa.

Subject: EXPLANATION: TRAINING CALENDAR FOR 1ST QUARTER (JULY TO SEPTEMBER, 2016).

I am directed to refer to your letter No. Nil dated Nil on the subject noted above and to state that the competent authority has taken a serious notice of your letter under reference wherein you have made nominations for the subject training directly to the Ministry of Planning & Development, Govt. of Pakistan without the approval of the Administrative Department. Your this act is violation of Rule 39 of Rules of Business 1985, which tantamount to misconduct.

I am, therefore to say that you are required to explain your position with regard to not taking prior approval of the Administrative Department before making direct correspondence with the Ministry concerned.

Your reply shall reach this Department within 03 days for perusal & further orders of the complete authority.


(Akbar Khan)
Section Officer (General)

Endst. No. & Date Even:

Copy forwarded to:-

1. PS to Secretary Law Department.
2. Superintendent (B&A), Law Department for information & record.


Section Officer (General)



14 229
GOVERNMENT OF KHYBER PAKHTUNKHWA LAW,
PARLIAMENTARY AFFAIRS & HUMAN RIGHTS
DEPARTMENT

No. SO(G)LD/1-13/2014/PF 9784-88
Dated Peshawar the 05th October, 2020

To

Mr. Noor Zaman Khattak,
District Attorney (BS-19), Labour Court Peshawar.

Subject: **WARNING.**

I am directed to draw your attention to the visit of District Karak conducted by the then Honourable Minister for Law on 02-05-2015 in connection with his official engagements. It may be recalled that during the aforementioned visit of the Honourable Minister for Law, you had accompanied him without seeking prior permission of the Administrative Secretary of Law, Parliamentary Affairs and Human Rights Department, which was requirement of norms of official discipline.

02. The matter was reported to the Competent Authority through official channels whereupon the Competent Authority has taken serious view of the aforementioned laps on your part.

03. I have, therefore, been directed by the Competent Authority to convey you "WARNING" to strictly follow the official norms and remain compliant with the official decorum and discipline, in future.

Additional Secretary (General)

Endst. No. & Date Even:

Copy is forwarded to the:-

1. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
2. Secretary Law, Parliamentary Affairs and Human Rights Department.
3. Director General, Law and Human Rights, Peshawar.
4. Personal file of the officer concerned.

Additional Secretary (General)

BEFORE THE KHYBER PAKHTUNKHAWA SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO: 7446/2021.

Mr. NOOR ZAMAN KHATTAK, DISTRICT Attorney S.T PESHAWAR.



.....APPELLANT

VERSUS.

The Hon'ble Chief Minister Through its principal Secretary and others.

Application for setting aside of Ex-parte Order dated 14-10-2021 against the applicant /Respondent No: 05

Respectfully sheweth:-

That the subject appeal was fixed for submission of reply on 14-10-2021 and next date is 28-10-2021.

2. That on the date fixed, the applicant was to present before the comp court Abbottabad vide Order No _____ dated _____.

3. That non-appearance in the subject appeal was not deliberate.

4. That the order dated 14-10-2021 is against the prevailing law and rules in vogue.

5. That the said order is based on mis-reading and non-reading of material facts and law.

6. That the application is within time.

It is, therefore, most humbly prayed that the ex-parte order dated 14-10-2021 may kindly be sit-aside with permission of submission of reply in the appeal.

*I have got NO OBJECTION in opposing Applicant
this ~~reply~~ ^{ex-parte} application for setting aside
of Ex-Parte order dated 14-10-2021*

Respondent No: 05
(IN PERSON)

Counsel,

NOOR MOHAMMAD KHATTAK

BEFORE THE KHYBER PAKHTUNKHAWA SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO: 7446/2021.

Mr.NOOR ZAMAN KHATTAK, DISTRICT Attorney, Directorate of Law and Human Right PESHAWAR.

.....**APPELLANT**

VERSUS.

The Hon'ble Chief Minister Through its principal Secretary and others.

.....**RESPONDENTS**

WRITTEN STATEMENT /REPLY ON BEHALF OF RESPONDENT NO: 5

PRELIMINARY OBJECTIONS:-

1. That the appellant has got no cause of action.
2. That the appellant has concealed material facts in the instant appeal.
3. That the appellant has not come to this Hon'ble Tribunal with clean hands.
4. That the appellant does not come within the definition of aggrieved person as provided by law.
5. That the appellant is liable to serve anywhere in any post u/s: 10, Cival Servant Act, 1973.

Respectfully sheweth:-

FACTS:-

1. No comments.
2. No comments.
3. In correct. The post of District Attorney is not a tenure protected one .The competent authority can tranper any officer in exigency of service under law. Copy of the impugned notification dated 03.06.2021 is attached as annexure A.
4. Correct to the extent that the notification dated 03.06.2021 has been actualized and the appellant reported to Directorate of law and human rights for further course of necessary actions. Copy of the arrival report of appellant is attached as annexure B.
5. Incorrect. Notifications dated 03.06.2021 and 11.06.2021 are two different wherein the answering respondent is not vice of appellant. Respondent no 5 has rightly been posted by the competent authority in exigency of service in public interest under the prevailing rules and law.

Copy of the notifications dated 11.03.2021 is attached as annexure.....C


6 to 9: No comments.

GROUNDS:-

- A. Incorrect. The impugned notifications dated 03-06-2021 and 11-06-2021 are issued by the competent authority according to law and rules in public interest.
- B. Incorrect. No violation of law and rules has been done.
- C. Incorrect. Notifications dated 03-06-2021 and 11-06-2021 has been passed in public interest and exigency of service. The appellant has not been victimized by any way.
- D. Incorrect. The impugned notifications have been passed by the competent authority.
- E. Incorrect. The impugned notifications have been passed by the competent authority.
- F. Incorrect. Law does not provide choice posting. The appellant is liable to serve anywhere in the province.
- G. Correct. No terms and conditions of service of appellant are violated.
- H. The appellant has not been posted as OSD rather he is directed to report to directorate general of law and human rights till further order in public interest.
- I. Incorrect.
- J. That respondents seek permission to contend and advance other grounds and proofs at the time of hearing.

It is, therefore, most humbly prayed that the instant appeal may graciously be dismissed with cost.

RESPONDENT NO: 5



(IN PERSON)

● BEFORE THE KHYBER PAKHTUNKHAWA SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO: 7446/2021.

Mr. NOOR ZAMAN KHATTAK,

VS

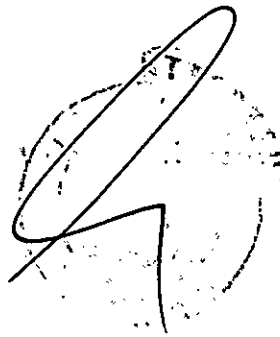
LAW DEPTT.

COUNTER AFFIDAVIT.

Stated on oath that the contents of the accompanying Reply are correct to best of my knowledge and belief and nothing has been concealed from this Hon'ble Service Tribunal.



DEPONENT



ANNEXURE B A

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

Dated: Peshawar the 03rd June, 2021

NOTIFICATION

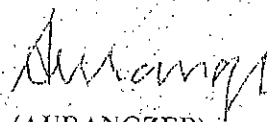
No.SO(G)/(L.D)15-11/2019-Vol-11/119. The Competent Authority is pleased to transfer Mr. Noor Zaman Khatik, District Attorney (BS-19) presently working as District Attorney, Service Tribunal Peshawar and direct him to report to Directorate General of Law and Human Rights, with immediate effect, in the interest of public service till further orders.

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

Endst: No. & Date Even:

Copy forwarded to the:-

1. Accountant General, Khyber Pakhtunkhwa.
2. Director General, Law and Human Rights Khyber Pakhtunkhwa.
3. Registrar, Khyber Pakhtunkhwa, Service Tribunal, Peshawar.
4. District Attorney: Khyber Pakhtunkhwa, Service Tribunal, Peshawar.
5. PSO to Chief Minister, Khyber Pakhtunkhwa.
6. PSO to Chief Secretary, Khyber Pakhtunkhwa.
7. PS to Minister for Parliamentary Affairs and Human Rights, Khyber Pakhtunkhwa.
8. PS to Minister for Law, Khyber Pakhtunkhwa.
9. PS to Secretary Law, Parliamentary Affairs and Human Rights Department.
10. PA to Additional Secretary (General), Law Department.
11. Officer concerned.
12. Personal file.


(AURANGZEB)
Section Officer (General)

ANNEXURE - Q

B



ARRIVAL REPORT

In compliance with the Secretary to Government of Khyber Pakhtunkhwa Law, Parliamentary Affairs and Human Rights Department Vide Order No. SO(G)LD/15-11/2019-Vol-II/49-60, dated 03-06-2021, I Mr. Noor Zaman Khattak, District Attorney (BPS-19) do hereby report in the Directorate General of Law & Human Rights today on 08-06-2021.

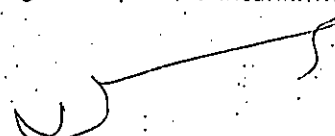
(NOOR ZAMAN KHATTAK)
District Attorney,
Khyber Pakhtunkhwa,
Service Tribunal Peshawar.

No. _____

Dated: ___/___/2021

Copy forwarded to:

1. PS to Minister Law.
2. PS to Secretary Law, Parliamentary Affairs and Human Rights Department.
3. Director General, Directorate of Law & Human rights Khyber Pakhtunkhwa.
4. The Registrar Service Tribunal Peshawar.
5. Office copy.


District Attorney,
Khyber Pakhtunkhwa,
Service Tribunal Peshawar.

C

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

Dated Peshawar the 11th June, 2021

NOTIFICATION

SO(G)LD/15-11/2019-Vol II. 481-90 The Competent Authority is pleased to authorize Mr. Usman Ghani, District Attorney (BS-19), Labour Court Peshawar to hold the additional duties of the District Attorney, Service Tribunal Peshawar in addition to his own duties, till further orders.

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

Endst: No. & Date Even:

Copy forwarded to the -

1. Advocate General, Khyber Pakhtunkhwa
2. Accountant General, Khyber Pakhtunkhwa
3. Registrar, Service Tribunal, Peshawar.
4. Director General, Law and Human Rights Khyber Pakhtunkhwa.
5. District Attorney of the Service Tribunal Peshawar/ Labour Court Peshawar
6. Officer concerned.
7. PS to Minister for Law, Khyber Pakhtunkhwa.
8. PS to Secretary Law, Parliamentary Affairs and Human Rights Department
9. PA to Deputy Secretary (Admin), Law Department
10. Personal file.

(Signature)
(AI RANGZEB)
Section Officer, General

BEFORE THE KHYBER PAKHTUNKHAWA SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO: 7446/2021.

Mr.NOOR ZAMAN KHATTAK, VS LAW DEPTT.

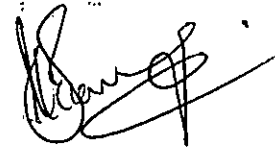
**REPLY ON BEHALF OF RESPONDENT NO: 5 AGAINST APPLICATION FOR
SUSPENSION OF THE OPERATION OF THE IMPUGNED NOTIFICATIONS DATED
03.06.2021 & 11.06.2021 TILL THE DISPOSAL OF APPEAL.**

R/SHEWETH:-

1. No comments.
2. Incorrect. Notifications dated 03.06.2021 and 11.06.2021 are two different wherein the answering respondent is not vice of appellant. Respondent no 5 has rightly been posted by the competent authority in exigency of service in public interest under the prevailing rules and law.
3. Incorrect. No final order has yet been passed by the competent authority.
4. Incorrect. The impugned notifications dated 03.06.2021 & 11.06.2021 had been issued by the competent authority within ambit of law and rules.

It is, therefore, requested that the instant application for suspension of impugned notifications may kindly be dismissed with cost.

RESPONDENT NO: 5



(IN PERSON)

Date of hearing: 04.01.2022

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

In respect of Service Appeal No.7446/2021

Mr. Noor Zaman Khattak, District Attorney (BPS-19), Service Tribunal Peshawar under transfer to Director General of Law & Human Rights Peshawar.

.....Appellant

VERSUS

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

.....Respondents.

REPLY ON BEHALF OF RESPONDENT NO.03

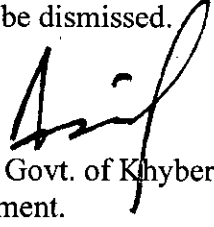
Respectfully Sheweth.

On facts

1. That the instant Service Appeal is pending adjudication in this Hon'ble Tribunal which is fixed for 04.01.2022 before DB.
2. That the Hon'ble Tribunal has directed to produce the copy of proposal worked out for transfer of the appellant for consideration of the Competent Authority vide order dated 09.12.2021.
3. That the Summary for Chief Minister on the subject posting transfer of District Attorneys of Law Department-confirmation which contain the proposal submitted for approval of the Competent Authority (**Annex-A**) is submitted for perusal.

Prayer:

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


Secretary to Govt. of Khyber Pakhtunkhwa,
Law Department.
Respondent No.03

V
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6

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

SUMMARY FOR CHIEF MINISTER

Subject: **POSTING TRANSFER OF DISTRICT ATTORNEY OF LAW
DEPARTMENT-CONFIRMATION.**

On the verbal directions of the Competent Authority, Law, Parliamentary Affairs and Human Rights Department has transferred Mr. Noor Zaman Khattak, District Attorney (BPS-19), Khyber Pakhtunkhwa Service Tribunal, Peshawar and directed him to report to Directorate General of Law and Human Rights, Peshawar on 03-06-2021 (**Annex-I**).

02. In terms of Rule 5 (8) read with Rule-17 (1) read with Serial No. 03 of Schedule-III of the Government of Khyber Pakhtunkhwa Rules of Business, 1985 (**Annex-II**), Notification placed at (**Annex-I ibid**) is submitted to the Hon'ble Chief Minister, Khyber Pakhtunkhwa for confirmation/approval of posting/ transfer of the above mentioned officer, please.

MINISTER FOR LAW

03-06-2021
**(MASOUB AHMAD)
SECRETARY LAW**

CHIEF SECRETARY


03-06-2021
Minister For Law
Parliamentary Affairs & Human Rights
Khyber Pakhtunkhwa

CHIEF MINISTER

P.T.O

3. The Summary for Chief Minister, Khyber Pakhtunkhwa submitted by Law Department regarding confirmation/approval of the posting/transfer of Mr. Noor Zaman Khattak District Attorney (BS-19), Khyber Pakhtunkhwa Service Tribunal, Peshawar to Directorate General of Law and Human Rights, Peshawar has been examined.

4. The Chief Minister, Khyber Pakhtunkhwa being competent authority may accord approval/confirmation to the proposal contained in Para 2 of the summary.



(MUTAHER ZEB)
Secretary Establishment
June 10, 2021

Chief Secretary, Khyber Pakhtunkhwa.

Chief Minister

s. ✓ Para-4 approved


" / 6
CHIEF SECRETARY
Govt. of Khyber Pakhtunkhwa


21-6-21
Chief Minister
Khyber Pakhtunkhwa

IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.7446/2021

Mr. Noor Zaman Khattak, District Attorney (BPS-19), Service Tribunal Peshawar under transfer to Director General of Law & Human Rights Peshawar.

.....Appellant

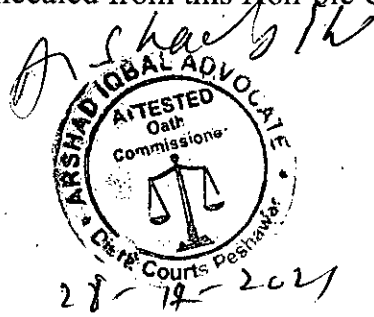
VERSUS

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.03 is true and correct to the best of my knowledge and belief that nothing has been concealed from this Hon'ble Court.



Naid Wali
Deponent 28-12-2021

CNIC No. 17301-9113868-5

Cell No. 0331-9222684

Identified By;

Additional Advocate General
Service Tribunal Khyber Pakhtunkhwa, Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. 7446/2021


NOOR ZAMAN KHATTAK

V/S

**GOVT. OF KP &
OTHERS**


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S.NO.	DOCUMENTS	ANNEXURE	PAGE
1.	Memo of Rejoinder	1 - 2
2.	Attendance Register	R1	3
3.	Judgment dated 25-01-2018	R2	4 - 6



APPELLANT

THROUGH:


NOOR MOHAMMAD KHATTAK,
ADVOCATES,
HIGH COURT PESHAWAR
0345-9383141

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Appeal No. 7446/2021

NOOR ZAMAN KHATTAK

V/S

**GOVT. OF KP &
OTHERS**

REJOINDER ON BEHALF OF APPELLANT IN RESPONSE
TO THE REPLY SUBMITTED BY THE OFFICIAL
RESPONDENTS

R/SHEWETH:

(1 to 7):

All the objections raised by the respondents are incorrect, baseless and not in accordance with law and rules, rather the respondents are estopped due to their own conduct to raise any objection at this stage of the appeal.

ON FACTS:

- 1- Para-1 of the comments is not replied accordingly as the para is misleading, contains allegation of the past & close transaction in which the appellant has properly been exonerated from the charges leveled and mentioned in the para vide notification dated 17-08-2020. Moreover, regarding the penalty of withholding of 03 increments for three years dated 12.03.2015 this Honourable Tribunal has very graciously accepted the appeal No. 707/2015 of the appellant vide judgment dated 25.01.2018. Copy of Notification dated 17.08.2020 & judgment dated 25.01.2018 is attached as annexure **R1 & R2.**
- 2- Admitted correct hence needs no comments.
- 3- Para-03 of the comments is not replied accordingly and contains only allegation nothing has neither been annexed nor been mentioned in the para that when the appellant didn't appeared in the cases.

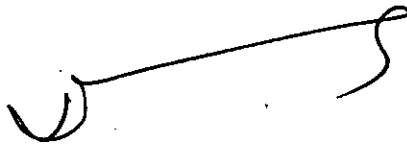
- 4- Admitted correct hence need no reply.
- 5- Incorrect, and not replied accordingly the para is misleading and misconceiving one.
- 6- Incorrect, and not replied accordingly.
- 7- Incorrect, and misinterpreted as it is the consistence view of the apex Supreme Court of Pakistan that could not be stopped in any way as it is not the bounty of the state.
- 8- Admitted correct hence need no comments.
- 9- Incorrect, and not replied accordingly. Moreover, section-10 cannot be imposed as a penalty.

GROUND:

All the grounds of main appeal are correct and in accordance with law and prevailing rules and that of the respondent are incorrect, concocted and baseless hence denied. That the impugned notifications dated 03-06-2021 & 11-06-2021 is against the Law & Rules available on the subject matter. That, the impugned notifications are passed in utter violation of posting transfer policy and needs interference of this Honourable court.

It is therefore, most humbly prayed that on acceptance of this rejoinder the appeal of the appellant may kindly be accepted in favor of the appellant.

Dated: 24-11-2021



APPELLANT

THROUGH:

NOOR MOHAMMAD KHATTAK

&

MUHAMMAD MAAZ MADNI,
ADVOCATES,
HIGH COURT PESHAWAR



R/11
③

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

Dated Peshawar the 17th August, 2020

NOTIFICATION:

SO (G)(LD) 1-13/2014/PF/ WHEREAS, Mr. Noor Zaman Khattak, District Attorney (BS-19), Ex-Director Human Rights (Now District Attorney Labour Court Peshawar) was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

02. AND WHEREAS, Mr. Ikramullah Khan, (PAS BPS-19), Secretary to Government of Khyber Pakhtunkhwa, Home and Tribal Affairs Department was appointed inquiry officer to conduct **Denovo Inquiry** against the accused officer.

03. AND WHEREAS, the Inquiry officer after having examined the charges, evidence on record and explanation of the accused officer has submitted the report.

04. AND WHEREAS, the Competent Authority, after having considered the charges, evidence on record, the explanation of the accused officer and defense offered by the accused officer during personal hearing before inquiry officer and exercising his power under Rule-14 of Khyber Pakhtunkhwa Govt: Servants (Efficiency & Discipline) Rules, 2011 has imposed minor penalty of "Censure" upon Mr. Noor Zaman Khattak, Ex-Director Human Rights.

05. AND WHEREAS, the accused officer has submitted a review petition against the orders of Chief Minister Khyber Pakhtunkhwa being Competent Authority for exoneration from the minor penalty of "Censure".

06. NOW THEREFORE, the Competent Authority, after having considered the charges, evidence on record and the review petition of the accused officer and exercising his powers under Rule-17(2)(b) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 by accepting review application, has been pleased to "exonerate" Mr. Noor Zaman Khattak, District Attorney (BS-19), Ex-Director Human Rights, from the charges leveled against him, with immediate effect.

Sd/-

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

Endst: of Even No. & Date: / 7511-18

Copy forwarded to the: -

- 1- Accountant General, Khyber Pakhtunkhwa, Peshawar.
- 2- Principal Secretary to Chief Minister Khyber Pakhtunkhwa, Peshawar.
- 3- PSO to Chief Secretary Khyber Pakhtunkhwa, Peshawar.
- 4- PS to Secretary Establishment Department, Khyber Pakhtunkhwa.
- 5- Director General, Law and Human Rights, Khyber Pakhtunkhwa.
- 6- PS to Secretary Law, Parliamentary Affairs and Human Rights Department, Khyber Pakhtunkhwa.
- ✓ 7- Officer concerned.
- 8- The Manager, Govt Printing Press, Peshawar.
- 9- Personal file.

Ijaz Khan
(IJAZ KHAN)
Section Officer (General)

R/2

4



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. 707/2015

Date of Institution... 24.06.2015

Date of decision... 25.01.2018

Noor Zaman Khan, Ex-SGP Chitral, Director Human Rights Khyber Pakhtunkhwa,
Peshawar. (Appellant)

Versus

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

Mr. Muhammad Asif Yousafzai, ... For appellant.
Advocate.

Mr. Muhammad Riaz Painsa Khel, ... For respondents.
Asst. Advocate General

MR. NIAZ MUHAMMAD KHAN, ... CHAIRMAN
MR. GUL ZEB KHAN, ... MEMBER

JUDGMENT

NIAZ MUHAMMAD KHAN, CHAIRMAN: - Arguments of the

learned counsel for the parties heard and record perused.

FACTS

2. The appellant was awarded minor penalty of withholding of three increments for 3 years on 12.3.2015 against which he filed a review petition on 24.3.2015 which was rejected on 10.06.2015 and thereafter, he filed the present service appeal on 24.6.2015.

ATTESTED

ARGUMENTS

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

The learned counsel for the appellant argued that none of the charge as per charge sheet was proved against the appellant. That the authority did not agree with the findings of the enquiry officer regarding quantum of punishment and it was

mandatory for him to have referred the matter to another enquiry committee or to the same enquiry committee after giving reasons but the same has not been done. He further argued that the habitual absenteeism of the appellant has not been proved but the appellant was awarded penalty on the ground of one day absence which was not the charge. That the appellant was exonerated by the enquiry committee for all other charges in the charge sheet. That no show cause notice within the meaning of sub rule 4 of Rule 14 of the Khyber Pakhtunkhwa Government Servants (E&D) Rules was served. That no copy of enquiry report was supplied to the appellant. That no right of cross examination was given to the appellant. That the enquiry committee also recommended the action against the other two officials but the authority did not take action against those two.

On the other hand, the learned Assistant Advocate General argued that the authority could disagree with the enquiry committee regarding quantum of punishment as the recommendations of punishment was not the domain of the enquiry committee. That one day absence was proved against the appellant and he was rightly awarded the penalty. That all the codal formalities were fulfilled. That the appellant was afforded personal hearing.

CONCLUSION

Regarding objection of the learned counsel for the appellant as to the disagreement qua the findings of the enquiry committee this Tribunal is not in agreement with the learned counsel for the appellant because disagreement of the authority with the enquiry committee was not on the proof of guilt or otherwise. The Authority differed with the quantum of punishment. The enquiry committee had not authority to recommend punishment. Had the authority disagreed with the findings of the enquiry committee as to the guilt of the appellant then, of course, the objection of the learned counsel for the appellant would have been valid. This

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(B)

Tribunal have gone through the charge sheet anxiously and the findings of the enquiry committee and has come to the conclusion that none of the charge has been proved. The only proof against the appellant is one day absence which is not part of the charge sheet. Secondly, the very impugned order of imposition of penalty shows that no show cause notice was given to the appellant with a copy of enquiry report as referred to by the learned counsel for the appellant. Non-service of notice with non-supply of copy of enquiry report would, of course, have prejudiced the appellant in his defence. In such situation, the findings of the competent authority could not be used against the appellant who was not afforded the opportunity of replying the show cause notice after going through the enquiry report. As such both these steps were mandatory to be followed. There is no need to discuss the non-action against other two officials pointed out by the learned counsel for the appellant.

6. As a sequel to the above discussion, the present appeal is accepted as prayed for. Parties are left to bear their own costs. File be consigned to the record room.

(Niaz Muhammad Khan)
Chairman

(Gul Zeb Khan)
Member

ANNOUNCED
25.1.2018

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 17/11/2021
 Number of Words 1600
 Copying Fee 18/-
 Urgent 4/-
 Total 22/-
 Name of Applicant [Signature]
 Date of Completion of Copy 17/11/2021
 Date of Delivery of Copy 17/11/2021



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 329 /ST

Dated: 10/02 /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 Parliamentary Affairs & Human Rights
Department,
Government of Khyber Pakhtunkhwa
Peshawar.

Subject: JUDGMENT IN APPEAL NO. 7446/2021 MR. NOOR ZAMAN KHATTAK.

I am directed to forward herewith a certified copy of Judgement dated 05.01.2022 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR