

14.07.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for the respondents present.

Reply/comments on behalf of respondents not submitted. Learned Additional Advocate General is directed to submit reply/comments on pre-admission notice as early as possible. Adjourned. To come up for reply/comments as well as preliminary hearing on 02.08.2022 before S.B.



(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)

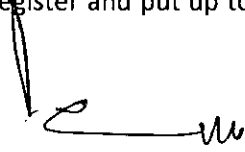


SCANNED
KPST
Peshawar

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 937/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	21/06/2022	<p>The appeal of Mr. Saeedullah presented today by Mr. Taimur Ali Khan Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR</p>
2-	23.6.22	<p>This case is entrusted to Single Bench at Peshawar for preliminary hearing to be put there on <u>24.6.22</u>. Notices be issued to appellant and his counsel for the date fixed.</p> <p> CHAIRMAN</p>
	24 th June, 2022	<p>Learned counsel for the appellant present.</p> <p>Let per-admission notice be issued to the respondents for reply/comments. To come up for preliminary hearing on 14.07.2022 before S.B.</p> <p> (Kalim Arshad Khan) Chairman</p>

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

Case Title: Saeed ulla vs Health Deptt

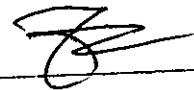
S.#	Contents	Yes	No
1.	This appeal has been presented by: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2.	Whether Counsel / Appellant / Respondent / Deponent have signed the requisite documents?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3.	Whether Appeal is within time?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.	Whether the enactment under which the appeal is filed mentioned?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5.	Whether the enactment under which the appeal is filed is correct?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6.	Whether affidavit is appended?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.	Whether affidavit is duly attested by competent oath commissioner?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8.	Whether appeal/annexures are properly paged?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9.	Whether certificate regarding filing any earlier appeal on the subject, furnished?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10.	Whether annexures are legible?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11.	Whether annexures are attested?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
12.	Whether copies of annexures are readable/clear?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
13.	Whether copy of appeal is delivered to A.G/D.A.G?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
14.	Whether Power of Attorney of the Counsel engaged is attested and signed by petitioner/appellant/respondents?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
15.	Whether numbers of referred cases given are correct?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
16.	Whether appeal contains cuttings/overwriting?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
17.	Whether list of books has been provided at the end of the appeal?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
18.	Whether case relate to this Court?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19.	Whether requisite number of spare copies attached?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20.	Whether complete spare copy is filed in separate file cover?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
21.	Whether addresses of parties given are complete?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
22.	Whether index filed?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
23.	Whether index is correct?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
24.	Whether Security and Process Fee deposited? on _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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 _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>
26.	Whether copies of comments/reply/rejoinder submitted? on _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>
27.	Whether copies of comments/reply/rejoinder provided to opposite party? on _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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

Name: _____

Taimur Ali Khan

Signature: _____



Dated: _____

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 937 /2022

Saeed Ullah

V/S

Health Deptt.

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APPELLANT

THROUGH:

(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

Cell# 0333-9390916

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

SERVICE APPEAL NO. 937 /2022

Saeed Ullah, Head Clerk/Account Clerk (BPS-14),
Office of DHO, North Waziristan, Tribal District.

(APPELLANT)

VERSUS

1. The Secretary to Govt: of Khyber Pakhtunkhwa, Health Department.
2. The Director General Health Service, K.P.K, Peshawar.
3. The Director Health Service Merged Areas Peshawar.
4. The District Health Officer, North Waziristan Tribal District.
5. Mr. Muhammad Mukhtar Computer Operator (BPS-16), DHO Office North Waziristan Tribal District.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 11.03.2022, WHEREBY THE PRIVATE RESPONDENT (MUHAMMAD MUKHTAR) WAS ASSIGNED THE DUTY OF HEAD CLERK/ACCOUNT CLERK OF DHO OFFICE NWTD AND APPELLANT WAS DIRECTED TO HAND OVER THE CHARGE OF ACCOUNT MATTER TO PRIVATE RESPONDENT (MUHAMMAD MUKHTAR) DESPITE THE FACT THE APPELLANT IS WORKING ON THE SAID POST ON THE BASIS OF SUSPENSION ORDER DATED 30.07.2021 BY THIS HONOURABLE SERVICE TRIBUNAL PASSED IN SERVICE APPEAL NO.7085/2021 AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL WITHIN THE STIPULATED PERIOD OF 90 DAYS.

PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 11.03.2022 MAY KINDLY BE SET ASIDE BEING PREMATURE, VIOLATION OF POSTING/TRANSFER POLICY, CIRCULAR DATED 27.12.2013 AND SUSPENSION ORDER DATED 30.07.2021 OF THIS HONOURABLE TRIBUNAL PASSED IN SERVICE APPEAL NO.7085/2021 AND THE RESPONDENTS MAY FURTHER BE DIRECTED TO RETAIN THE APPELLANT ON THE POST OF HEAD CLERK/ACCOUNT CLERK IN THE OFFICE OF DHO NWTD TILL COMPLETION OF HIS NORMAL TENURE ON THE POST OF HEAD CLERK/ACCOUNT CLERK. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant being Senior clerk (BPS-14) working as Head Clerk/Account Clerk (BPS-14) in the office of DHO North Waziristan and performing his duty with great devotion and honesty whatsoever assigned to him which is evident from the Service Certificates and letter issued by the Competent Authority from time to time in respect of appellant.
2. That the appellant was posted as Head Clerk/Accountant BPS-14 in the office of DHO North Waziristan Tribal District vide order dated 11.08.2020. (Copy of order dated 11.08.2020 is attached as Annexure-A)
3. That respondent No.4 passed another order dated 24.08.2020, whereby the appellant was posted as Account Clerk in the office of DHO North Waziristan Tribal District and Junior Clerk namely Amjid Saleem was directed to continue his duty as Head Clerk BPS-14 in the office of DHO North Waziristan Tribal District Miranshah. (Copy of order dated 24.08.2020 is attached as Annexure-B)
4. That just after 18-days, the order dated 24.08.2020 was suspended by relieving the appellant of his charge/duty and Amjid Saleem, who is junior clerk (BPS-11) has given the charge of Head Clerk/Account Clerk in the office of DHO North Waziristan Tribal District through

order dated 10.09.2020. (Copy of order dated 10.09.2020 is attached as Annexure-C)

5. That the appellant being aggrieved from the order dated 10.09.2020 filed service appeal No. 3423/2021 against the impugned transfer order dated 10.09.2020 along with the suspension application in this Honourable Service Tribunal, which was fixed for preliminary hearing on 16.03.2021. The Honourable Service Tribunal admitted the appeal of the appellant for regular hearing and also suspended the impugned order to the extent of the appellant on the date fixed i.e 16.03.2021. (Copies of service appeal 3423/2021 and order sheet dated 16.03.2021 are attached as Annexure-D&E)
6. That in the compliance of the suspension order dated 16.03.2021 of the Honourable KP Service Tribunal, the appellant was posted as Head Clerk/Accountant in the office of the DHO North Waziristan Vide order dated 16.04.2021. (Copy of order dated 16.04.2021 is attached as Annexure-F)
7. That during the pendency of service appeal No.3423/2021, respondent No.2 passed an order dated 15.06.2021, whereby the appellant was transferred from DHO office North Waziristan to DHQ Hospital Miranshah despite the fact the appellant is working on the basis of suspension order dated 16.03.2021 of this Honourable Service Tribunal passed in service appeal No.3423/2021. (Copy of transfer order dated 15.06.2021 is attached as Annexure-G)
8. That the appellant being aggrieved from the order dated 15.06.2021 filed service appeal No. 7085/2021 against the impugned transfer order dated 15.06.2021 along with the suspension application in this Honourable Service Tribunal, which was fixed for preliminary hearing on 30.07.2021. The Honourable Service Tribunal admitted the appeal of the appellant for regular hearing and also suspended the operation impugned order on the date fixed i.e 30.07.2021. (Copies of service appeal No.7085/2021 and order sheet dated 30.07.2021 are attached as Annexure-H&I)
9. That in the compliance of the suspension order dated 30.07.2021 of the Honourable KP Service Tribunal, the posting/transfer dated 15.06.2021 in respect of the appellant was suspended vide order dated 01.09.2021 and the appellant was directed to assume charge of head clerk in DHO Office North Waziristan vide 04.10.2021. (Copies of order dated 01.09.2021 and 04.2021 are attached as Annexure-J&K)

10. That during the pendency of service appeal No.7085/2021, respondent No.4 passed an order dated 11.03.2022, whereby the private respondent No.5 (Muhammad Mukhtar) was assigned the duty of Head Clerk/Account Clerk of DHO Office NWTD and appellant was directed to hand over the charge of account matter to private respondent No.5 (Muhammad Mukhtar) despite the fact the appellant was working on the said post on the basis of suspension order dated 30.07.2021 of this Honourable Service Tribunal passed in service appeal No.7085/2021. **(Copy of order dated 11.03.2022 is attached as Annexure-L)**
11. That the appellant being aggrieved from the impugned order dated 11.03.2022 filed departmental appeal on 12.03.2021 which was not responded with in the stipulated period of 90 days. **(Copy of departmental appeal is attached as Annexure-M)**
12. That the appellant has no other remedy except to file the instant appeal in this Honourable Tribunal for redressal of his grievance on the following grounds amongst others.

GROUNDS:-

- A) That the impugned order dated 11.03.2022 is against the law, facts, norms of justice material on record, posting transfer policy and circular dated 27.02.2013, suspension order dated 30.07.2021 passed by this Honourable Service Tribunal in service appeal No.7085/2021 therefore, not tenable and liable to be set aside.
- B) That the appellant is working on the basis of suspension order dated 30.07.2021 granted by the Honourable KP Service Tribunal in service appeal No. 7085/2021 and his case is pending for adjudication before the Honourable Tribunal, but despite that the impugned order dated 11.03.2022 was passed by the respondent No.4, which is violation of Tribunal order dated 30.07.2021 and amount to contempt of Court and such the impugned order dated 11.03.2022 is liable to be set aside.
- C) That the appellant is Senior Clerk (BPS-14) and is entitle to be work as Head Clerk, but out of cadre employee i.e computer operator (BPS-16) has assigned the duty of head clerk/account clerk and the appellant was left without posting, which is against the law and rules and as such the impugned order dated 11.03.2022 is liable to be set aside.

D) That the appellant was posted as Account/Head clerk on 24.08.2020, but was relived just after 18-days by suspending the order dated 24.08.2020 through order dated 10.09.2020, which was suspended by the Honourable Service Tribunal on 16.03.2021, but he was again transferred on 15.06.2021 which was again suspended by the Honourable Service Tribunal on 30.07.2021 and now again out of cadre employee was posted on the post of the appellant and the appellant was left without posting, which is clear violation of posting/transfer policy, circular dated 27.02.2013 and suspension order dated 30.07.2021 of this Honourable Tribunal as such the impugned dated 11.03.2022 is liable to be set aside. (Copies of posting transfer policy and circular dated 27.02.2013 are attached as Annexure-N&O)

E) That the impugned order is premature as the appellant has not completed his normal tenure on his post as per posting transfer policy and premature transfer is discouraged by the superior courts in plethora of judgments and as such the impugned transfer order is liable to be set aside.

1. That the appellant was frequently transferred in short span of one year which also shows the malafide of the respondents and due to the frequent transfer orders, the appellant did not perform his duty to best of his ability and capability.

F) That the appellant seeks permission of this Honorable Tribunal to advance others grounds and proofs at the time of hearing.

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

APPELLANT
Saeed ullah

THROUGH:

(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

SERVICE APPEAL NO. _____/2022

Saeed Ullah

V/S

Health Deptt:

.....

AFFIDAVIT

I, Saeed Ullah Head Clerk/Account Clerk (BPS-14), Office of DHO, North Waziristan, Tribal District, (Appellant) do hereby affirm and declare that the contents of this service appeal are true and correct and nothing has been concealed from this Honourable Tribunal.


DEPONENT

Saeed Ullah
(APPELLANT)

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2022

Saeed Ullah

V/S

Health Deptt:)

**APPLICATION FOR SUSPENDING THE
OPERATION OF ORDER DATED 11.03.2022 TILL
THE DECISION OF MAIN APPEAL.**

RESPECTFULLY SHEWETH

2. That the appellant has filed an appeal along with this application in which no date is fixed so far.
3. That the appellant is working on the basis of suspension order dated? granted by the Honourable KP Service Tribunal in service appeal No. 7085/2021 and his case is pending for adjudication before the Honourable Tribunal, but despite that the impugned order dated 11.03.2022 was passed by the respondent No.5, which is violation of Tribunal order dated 30.07.2021 and amount to contempt of Court and the impugned order dated 11.03.2022 is liable to be suspended.
4. That the impugned transfer order is premature as the appellant has not completed his normal tenure on his post as per posting transfer policy and such premature transfer is discouraged by the superior courts in plethora of judgments and as such the impugned order is liable to be suspended on this ground alone.
5. That the appellant was frequently transferred in short span of one year which also shows the malafide of the respondents and due to the frequent transfer orders, the appellant did not perform his duty to best of his ability and capability.
6. That the appellant has a good prima facie case and all the three ingredients are in favour of the appellant.

7. That the grounds of main appeal may also be considered as integral part of this application.

It is therefore most humbly prayed that on the acceptance of this application the operation of the order dated 11.03.2022 may be suspended till the decision of main appeal.

THROUGH:


APPELLANT

(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

AFFIDAVIT

It is affirmed and declared that the contents of Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Tribunal.


DEPONENT

Amjad H

A 9

OFFICE OF THE DISTRICT HEALTH OFFICER
NORTH WAZIRISTAN TRIBAL DISTRICT MIRANSHAH

Phone & fax 0920-300788
No 3599-3 PF-I

Miranshah

Dated

Email : dhonwtd@gmail.com
the 11 /08/2020

OFFICE ORDER

Mr. Saeedullah Senior Clerk BPS-14 attached to this office is hereby Posted as Head Clerk/Accountant BPS-14 in office of the District Health Officer NW TD with immediate effect in public interest.


Mr. Amjad Saleem Junior Clerk BPS-11 is hereby directed to hand over the charge of Accounts matters, and to continue his duty as DHIS / HMIS, Aids control Programme, Hepatitis Control Programme Clerk of this Office till the decision of the case in High Court Bannu branch vide W.P No.271-B/2020.

Note:- Compliance report should be submitted to this office.

Sd/-
(DR. MUHAMMAD ISRAR-UL-HAQ)
DISTRICT HEALTH OFFICER,
NORTH WAZIRISTAN TD MIRANSHAH

Copy forwarded to the:

1. Director Health Services MDs Peshawar.
2. Registrar High Court Bannu Branch.
3. District Accounts Officer NW TD Miranshah.
4. Accounts Pay bill clerk of this office.
5. Official concerned.


DISTRICT HEALTH OFFICER,
NORTH WAZIRISTAN TD MIRANSHAH

Amjad

(10) (11) (10)

B 10

**OFFICE OF THE DISTRICT HEALTH OFFICER
NORTH WAZIRISTAN TRIBAL DISTRICT MIRANSHAH**

Phone & fax 0920-300788

Email : dhonwtd@gmail.com

No. 3836-38 PE-I Miranshah

Dated

the 24 /08/2020

OFFICE ORDER

Mr. Amjad Saleem Junior Clerk BPS-11 is hereby directed to continue his duty as Head Clerk BPS-14 of this Office till the decision of W.P.No. 271-B/2020 in Peshawar High Court Bannu branch.

Mr. Saeedulah Senior Clerk BPS-14 attached to this office is hereby Posted as Account Clerk BPS-14 in the office of District Health Officer NW TD with immediate effect in public interest.

Note:- Compliance report should be submitted to this office.

Sd/-

(DR. MUHAMMAD ISRAR-UL-HAQ)
DISTRICT HEALTH OFFICER,
NORTH WAZIRISTAN TD MIRANSHAH

Copy forwarded to the:

1. Director Health Services MDs Peshawar.
2. Registrar Peshawar High Court Bannu Branch.
3. District Accounts Officer NW TD Miranshah
4. Accounts Pay bill clerk of this office.
5. Official concerned.


DISTRICT HEALTH OFFICER,
NORTH WAZIRISTAN TD MIRANSHAH

OFFICE OF THE DISTRICT HEALTH OFFICER TRIBAL DISTRICT NORTH
WAZIRISTAN

Phone & Fax: 0928300788-311662 email:agency surgeonwa@gmail.com

No. 4236-40 /PF-1-A

Miranshah Dated 10/09/2020.

OFFICE ORDER

Mr Amjad Saleem Junior Clerk BPS-11 is hereby given the charge of Head/Account Clerk of the office of District Health Officer North Waziristan Tribal District in best public interest keeping in view of his good track record and performance.

This office order bearing No.3834-38/PF-I dated 24/08/2020 is hereby superseded with this office order by relieving Mr. Saeddullah Senior Clerk of the charge/duty.

(Dr. Muhammad Israr Ul Haq)
District Health Officer
North Waziristan Tribal District

Copy forwarded to:-

1. Director Health, Service, Merged Area Peshawar.
2. Director HR, DG Health Govt of KPK Peshawar.
3. District Account Officer North Waziristan at Miranshah.
4. PS to DG Health Govt of KPK Peshawar.
5. Official concerned/office file.

District Health Officer
North Waziristan Tribal District

BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR



APPEAL NO. 3423 /2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 3503

Dated 11/3/2021

Saeed Ullah, Head Clerk/Account Clerk (BPS-14),
Office of DHO, North Waziristan, Tribal District Miranshah.

(APPELLANT)

VERSUS

1. The Secretary to Govt. of Khyber Pakhtunkhwa, Health Department.
2. The Director General Health Service, Khyber Pakhtunkhwa, Peshawar.
3. The Director Health Services Merged Areas Peshawar.
4. The District Health Officer, North Waziristan Tribal District Miranshah.
5. Mr. Amjad Saleem, Junior Clerk, DHO Office North Waziristan, Tribal District Miranshah.

(RESPONDENTS)

Filed to-day

Registrar

11/03/2021

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 10.09.2020 WHEREBY THE ORDER DATED 24.08.2020 WAS SUSPENDED AND THE APPELLANT WAS PREMATURELY RELIEVED/TRANSFERRED FROM THE POST OF ACCOUNT CLERK AND AGAINST NOT TAKING ANY ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF 90 DAYS.

PRAYER:

Re-submitted to-day
and filed.

Registrar

11/3/2021

THAT ON ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 10.09.2020 MAY KINDLY BE SET-ASIDE BEING PREMATURE AND THE RESPONDENTS MAY FURTHER BE DIRECTED TO RESTORE THE ORDER DATED 24.08.2020 TO THE EXTENT OF THE APPELLANT

ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(70) (13)

ON THE POST OF HEAD CLERK (BPS-14) BEING JUNIOR CLERK (BPS-11). ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF THE APPELLANT.

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant being Senior clerk (BPS-14) working as Head Clerk/Account Clerk (BPS-14) in the respondent department and performing his duty with great devotion and honesty whatsoever assigned to him which is evident from the Service Certificates and letter issued by the Competent Authority from time to time in respect of appellant. (Copy of Service Certificate and Letters are attached as Annexure - "A" & "B").
2. That the Private Respondent No. 5 who is Junior Clerk (BPS-11), but working on the post of Head Clerk/Accounts Clerk (BPS-14) was relieved from the post of Head Clerk/Accounts Clerk on administrative ground on 24.02.2020 and suspended on account of misconduct and non-compliance of order dated 24.02.2020 and inquiry was initiated against him through order dated 13.03.2020, however, the order dated 24.02.2020 was challenged by private respondent No.5 in the Honorable Peshawar High Court, Bannu Bench in W.P No. 271-B/2020. (Copy of Order dated 24.02.2020 and 13.03.2020 are attached as Annexure - "C" & "D").
3. That the appellant being Senior Clerk (BPS-14) was posted as Head Clerk/Accountant (BPS-14) in the office of DHO North Waziristan Tribal District, while private respondent No. 5 was directed to hand over the charge of accounts matters and to continue his duty as DHMIS/HMIS, AIDS Control Programme, Hepatitis Control Programme of this office till the decision of case in High Court Bannu Bench vide writ petition No. 271-B/2020 vide order dated 11.08.2020 and in this respect direction was also given by the Competent Authority to the Respondent No. 5 to hand over the charge of account matters to the appellant through letter dated 13.08.2020. (Copy of Order dated 11.08.2020 & Letter dated 13.08.2020 are attached as Annexure - "E" & "F").
4. That through an order dated 20.08.2020, the order dated 11.08.2020 was withdrawn and passed an other order dated 24.08.2020, whereby the appellant was posted as Account Clerk in the office of DHO North Waziristan Tribal District Miranshah and private respondent No. 5

ATTESTED

EXAMINER
Miranshah Pakhtunkhwa
Service Tribunal
Peshawar

(D) (B) 14


was directed to continue his duty as Head Clerk BPS-14 in the office of DHO North Waziristan Tribal District Miranshah till the decision of writ petition No. 271-B/2020 in Peshawar High Court, Bannu Bench. (Copy of Order dated 20.08.2020 and 24.08.2020 are attached as Annexure - "G" & "H").

5. That astonishingly just after 18-days, the order dated 24.08.2020 was suspended by relieving the appellant of his charge/duty and private respondent No. 5 who is junior clerk (BPS-11) has given the charge of Head Clerk/Account Clerk in the office of DHO North Waziristan Tribal District through order dated 10.09.2020. (Copy of Order dated 10.09.2020 is attached as Annexure - "I").
6. That the appellant being aggrieved from the order dated 10.09.2020 filed writ petition No. 936-B/2020 in the Honorable Peshawar High Court Bannu Bench. The writ petition No. 936-B/2020 of the appellant and the writ petition No. 271-B/2020 of private respondent No. 5 were decided on same day i.e 24.11.2020 in which the Honorable Court dismissed the writ petition of the appellant on the basis of jurisdiction being not maintainable under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973, however the appellant/petitioner has given liberty to approach the proper and competent forum in this respect, while the writ petition of the private respondent No. 5 was dismissed on the basis of merit. (Copy of Judgment in W.P. No.936-B/2020 and W.P. No. 271-B/2020 are attached as Annexure-"J" & "K").
7. That after the decision of Honorable Peshawar High Court Bannu Bench, the appellant filed departmental appeal on 07.12.2020 which is not responded within the statutory period 90-days. (Copy of Departmental Appeal is attached as Annexure - "L").
8. That now the appellant comes to this Honourable Tribunal for redressal of his grievances on the following grounds amongst others.

GROUND:-

- A) That the impugned order dated 10.09.2020 and not taking any action on the department appeal are against the law, facts, norms of justice material on record, posting transfer policy and circular dated 27.02.2013, therefore, not tenable and liable to be set aside.
- B) That the appellant was relived/transfer just after 18-days by suspending the order dated 24.08.2020 through order dated 10.09.2020, which is clear violation of posting/transfer policy and

ATTESTED


EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

4

(15)

circular dated 27.02.2013 are attached as Annexure - "M" & "N".

- C) That the private respondent No. 5 is Junior Clerk (BPS-11), but despite that he was posted on the post of BPS-14 (Head Clerk/Account Clerk), while the appellant is senior clerk BPS-14 but he was relieved from the post of Account Clerk (BPS-14) just after 18-days by suspending the order dated 24.08.2020 through impugned order dated 10.09.2020 to adjust the blue eyed person, which is clear violation of the Superior Court Judgment and as such the impugned order is liable to be set-aside on this ground alone.
- D) That the Honorable Peshawar High Court Bannu Bench has dismissed the case of private respondent No. 5 on the basis of merit and in this respect respondent No. 2 wrote a letter dated 06.01.2021 to Respondent No. 4 to implement the Writ Petition No. 936-B/2020 and 271-B/2020, but despite that private respondent No. 5 has not relinquished the charge despite the dismissal of his case by the Honorable Peshawar High Court, Bannu Bench, which shows the arrogant attitude of respondent No. 5 by not obeying the order of Honourable Peshawar High Court, Bannu Bench as well as his superiors. Copy of letter dated 06.01.2021 is attached as Annexure-O.
- E) That the writ petition No. 936-B/2020 of the appellant was not dismissed on the ground of merit but dismiss on the ground of jurisdiction/maintainability with liberty to the appellant to approach the proper and competent forum and the appellant has come this Honourable Tribunal against premature and illegal order, which is liable to be set aside being premature and passed in violation of posting transfer policy and circular dated 27.02.2013 and superior Court judgments.
- F) That the appellant is senior clerk (BPS-14) and was relived from the post BPS-14 (Head Clerk/account Clerk) by suspending the order dated 24.08.2020 through impugned order dated 10.09.2020, while private respondent who was junior clerk (BPS-11) was adjusted on the post of Head Clerk (BPS-14), which is not permissible under the law and rules.
- G) The impugned order is premature as the appellant has relieved/transferred just after 18 days, which is clear violation of transfer posting policy and circular dated 27.02.2013.

ATTESTED


EXAMINER
Khair Pakhtukhwa
Service Tribunal
Peshawar

H) That the appellant is subject to frequent transfer orders which also shows the malafide of the respondents and due to the frequent transfer orders, the appellant did not perform his duty to best of his ability and capability.

I) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

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

[Signature]

APPELLANT

THROUGH:

[Signature]

(M. ASIF YOUSAFZAI)

ADVOCATE SUPREME COURT OF PAKISTAN

(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT,

[Signature]
(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

[Signature]
(ASAD MEHMOOD)
ADVOCATE HIGH COURT,

(SHAHKAR KHAN YOUSAFZ)
ADVOCATE PESHAW.

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

Date of Presentation of Application 27/7/21

Number of Words 2800

Copying Fee 30/-

Urgent 4/-

Total 34/-

Name of Copyist —

Date of Completion of Copy 27/7/21

Date of Delivery of Copy 27/7/21

(S) (S) (17)

BEFORE THE KP SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____ /2021

Saeed Ullah


V/S

Health Deptt. & others.

**APPLICATION FOR SUSPENDING THE
OPERATION OF ORDER DATED 10.09.2020 TO
THE EXTENT OF THE APPELLANT TILL THE
DECISION OF MAIN APPEAL.**

RESPECTFULLY SHEWETH

1. That the appellant has filed an appeal along with this application in which no date is fixed so for.
2. That the appellant is senior clerk (BPS-14) and was relived from the post BPS-14 (Head Clerk/account Clerk) by suspending the order dated 24.08.2020 through impugned order dated 10.09.2020, while private respondent who was junior clerk (BPS-11) was adjusted on the post of Head Clerk (BPS-14), which is not permissible under the law and rules.
3. The impugned transfer order is premature as the appellant has relieved/transferred just after 18 days, which is clear violation of transfer posting policy and circular dated 27.02.2013.
4. That the appellant is subject to frequent transfer orders which also shows the malafide of the respondents and due to the frequent transfer orders, the appellant did not perform his duty to best of his ability and capability.
5. That the grounds of main appeal may also be considered as integral part of this application.
6. That the appellant has a good prima facie case and all the three ingredients are in favour of the appellant.

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

(18)

It is, therefore, most humbly prayed that on the acceptance of this application the operation of the order dated 10.09.2020 may be suspended to the extent of the appellant as private respondent No.5 who is not eligible to the post of Head Clerk/ Account Clerk (BPS-14) being Junior Clerk (BPS-11) till the decision of main appeal.

APPELLANT

THROUGH:

M. Asif Yousafzai

(M. ASIF YOUSAFZAI)

ADVOCATE SUPREME COURT OF PAKISTAN

(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT,

(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT,

Asad Mehmood

(ASAD MEHMOOD)
ADVOCATE HIGH COURT,

(SHAHKAR KHAN YOUSAFZAI)
ADVOCATE PESHAWAR.

AFFIDAVIT

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

G. Wa
DEPONENT

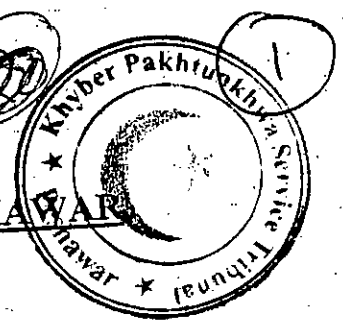
ATTESTED

Certified to be true copy

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar



BEFORE THE KP SERVICE TRIBUNAL, PESHAWAR



APPEAL NO. 3423 /2021

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 3503

Dated 11/3/2021

Saeed Ullah, Head Clerk/Account Clerk (BPS-14),
Office of DHO, North Waziristan, Tribal District Miranshah.

(APPELLANT)

VERSUS

1. The Secretary to Govt. of Khyber Pakhtunkhwa, Health Department.
2. The Director General Health Service, Khyber Pakhtunkhwa, Peshawar.
3. The Director Health Services Merged Areas Peshawar.
4. The District Health Officer, North Waziristan Tribal District Miranshah.
5. Mr. Amjad Saleem, Junior Clerk, DHO Office North Waziristan, Tribal District Miranshah.

(RESPONDENTS)

Filed to-day

Saeed Ullah
Registrar
11/03/2021

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 10.09.2020 WHEREBY THE ORDER DATED 24.08.2020 WAS SUSPENDED AND THE APPELLANT WAS PREMATURELY RELIEVED/TRANSFERRED FROM THE POST OF ACCOUNT CLERK AND AGAINST NOT TAKING ANY ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF 90 DAYS.

PRAYER:

Re-submitted to-day
and filed.

Saeed Ullah
Registrar
11/3/2021

THAT ON ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 10.09.2020 MAY KINDLY BE SET-ASIDE BEING PREMATURE AND THE RESPONDENTS MAY FURTHER BE DIRECTED TO RESTORE THE ORDER DATED 24.08.2020 TO THE EXTENT OF THE APPELLANT

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

20




16.03.2021 Counsel for the appellant present.

It is the contention of learned counsel that the appellant was retransferred only after spending a period of 18 days through order dated 24.08.2020. The later order was issued on 10.09.2020 in blatant disregard of transfer/posting policy of Provincial Government and for no good reason.

In view of available record and submissions by learned counsel, instant appeal merits admission for regular hearing. Order accordingly. The appellant is required to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 02.04.2021 before S.B.

An application for suspension of operation of impugned order dated 10.09.2020 has also been submitted alongwith the appeal. Notice of the application be also given to the respondents for the date fixed. Till then the operation of impugned order, to the extent of appellant, shall remain suspended if not acted upon already.


Chairman

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

**OFFICE OF THE DISTRICT HEALTH OFFICER
NORTH WAZIRISTAN TRIBAL DISTRICT MIRANSHAH**

Phone & fax 0920-300788

Email : dhonwtd@gmail.com

No. 4983-88 PF-I

Miranshah

Dated

the 16/04/2021

F. 21

OFFICE ORDER

In the light of Khyber Pakhtunkhwa Service Tribunal Peshawar decision dated 16.03.2021 vide w.p No.3423/2021, Mr. Saeedullah Senior Clerk BPS-14 attached to this office is hereby posted as Accountant / Head Clerk BPS-14 against the vacant post in the office of the Undersigned with immediate effect in public interest.

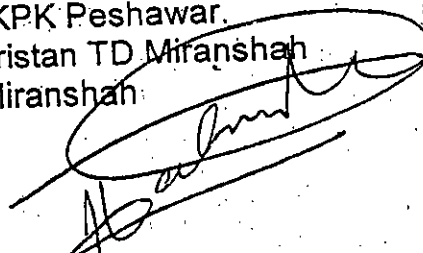
Note:- Compliance report should be submitted to this office for record.

Sd/-

**DISTRICT HEALTH OFFICER,
NORTH WAZIRISTAN TD MIRANSHAH**

Copy forwarded to the:

1. Registrar Service Tribunal KPK Peshawar.
2. PS to Secretary Health Govt. of KPK Peshawar
3. Director General Health Services KPK Peshawar.
4. Deputy Commissioner North Waziristan TD Miranshah
5. District Accounts Officer NW TD Miranshah
6. Official concerned.


**DISTRICT HEALTH OFFICER,
NORTH WAZIRISTAN TD MIRANSHAH**



DIRECTORATE GENERAL HEALTH SERVICES KHYBER PAKHTUN KHW PESHAWAR

OFFICE ORDER

Amir
[Signature]
22

On the recommendation of Khyber Pakhtunkhwa Provincial Inspection Team enquiry report regarding illegal appointments in DHO Office North Waziristan Miranshah vide Govt. of KP Health Department letter No. SOH(E-V)4-4/2021/Inquiry Report dated 22.04.2021 the following posting/ transfer of Ministerial Staff are hereby ordered with immediate effect:-

S.No	Name of Officials	From	To	Remarks
1.	Saeed Ullah Senior Clerk	DHO North Waziristan	DHQ Hospital Miranshah	Vice S.No.4
2.	Muhammad Haider All Senior Clerk	DHO North Waziristan	DHO Kohat	Against the vacant post
3.	Muhammad Ilyas Senior Clerk	DHO North Waziristan	DHO South Waziristan	Against the vacant post
4.	Mutabar Khan Senior Clerk	DHQ Hospital Miranshah	DHO North Waziristan	Vice S.No.3
5.	Syed Muhammad Junior Clerk	DHO North Waziristan	DHQ Hospital Miranshah	Vice S.No.6
6.	Mr. Aman Ullah Junior Clerk	DHQ Hospital Miranshah	DHO North Waziristan	Vice S.No.5
7.	Gul Badshah Junior Clerk	DHO North Waziristan	DHQ Hospital Miranshah	Vice S.No.14
8.	Muhammad Usman Junior Clerk	DHO North Waziristan	DHQ Hospital Miranshah	Vice S.No.9
9.	Mr. Zahid Saeed Junior Clerk	DHQ Hospital Miranshah	DHO North Waziristan	Vice S.No.8
10.	Muhammad Amjad Junior Clerk	DHO North Waziristan	DHQ Hospital Miranshah	Vice S.No.11
11.	Gohar Rehman Junior Clerk	DHQ Hospital Miranshah	DHO North Waziristan	Vice S.No.10
12.	Safdar All Junior Clerk	DHO North Waziristan	DHQ Hospital Miranshah	Vice S.No.15
13.	Muhammad Niaz Junior Clerk	DHO North Waziristan	DHQ Hospital Miranshah	Vice S.No.16
14.	Mr. Aqib Islam Junior Clerk	DHQ Hospital Miranshah	DHO North Waziristan	Vice S.No.7
15.	Mr. Abdul Alf Junior Clerk	DHQ Hospital Miranshah	DHO North Waziristan	Vice S.No.12
16.	Mr. Jamil Ahmad Junior Clerk	DHQ Hospital Miranshah	DHO North Waziristan	Vice S.No.13
17.	Gul Behram Accountant	DHO North Waziristan	DHO Office South Waziristan	DHO should relieve his substitute
18.	Muhammad Mukhtar Computer Operator	DHO North Waziristan	DHQ Hospital Miranshah	Vice S.No.19
19.	Altaf Afzal Computer Operator	DHQ Hospital Miranshah	DHO North Waziristan	Vice S.No.18
20.	Mansoor Ahmad Accountant	DHO North Waziristan	DHO Kurram	DHO should relieve his substitute

NB: Arrival/ departure report should be submitted to this Office for record.

Sd/xxxxxx
DIRECTOR GENERAL HEALTH
SERVICES, K.P. PESHAWAR.
Dated 15/6/2021

- No. 3659-86 /Personnel
Copy forwarded to the:-
1. DHO North Waziristan.
 2. DHQ South Waziristan.
 3. DHO Kohat.
 4. MS-DHQ Hospital Miranshah.
 5. Section Officer (VI) Govt. of KP Health Department Peshawar.
 6. PA to DGHS, Khyber Pakhtunkhwa.
 7. Assistant Director (Ministerial) DGHS, KP Peshawar.
 8. Officials concerned.

For information and necessary action.

DIRECTOR GENERAL HEALTH
SERVICES, K.P. PESHAWAR.

11/06/2021

H 23

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2021

Saeed Ullah, Head Clerk/Account Clerk (BPS-14),
Office of DHO, North Waziristan, Tribal District.

(APPELLANT)

VERSUS

1. The Secretary to Govt: of Khyber Pakhtunkhwa, Health Department.
2. The Director General Health Service, K.P.K, Peshawar.
3. The Director Health Service Merged Areas Peshawar.
4. The District Health Officer, North Waziristan Tribal District.
5. Mr. Mutabar Khan, DHQ Hospital Miranshah.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST
THE ORDER DATED 15.06.2021, WHEREBY THE
APPELLANT WAS PREMATURELY TRANSFERRED FROM
DHO OFFICE NORTH WAZIRISTAN TO DHQ HOSPITAL
MIRANSHAH AND AGAINST NOT TAKING ACTION ON
THE DEPARTMENTAL APPEAL WITHIN 15 DAYS AS PER
POSTING TRANSFER POLICY.

PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL, THE
IMPUGNED ORDER DATED 15.06.2021 MAY KINDLY BE
SET ASIDE TO THE EXTENT OF THE APPELLANT AND
PRIVATE RESPONDENT NO.5 BEING PREMATURE AND IN
THE VIOLATION OF POSTING/TRANSFER POLICY AND
CIRCULAR DATED 27.12.2013. THE RESPONDENTS MAY
FURTHER BE DIRECTED NOT TO TRANSFER THE
APPELLANT PREMATURELY AND IN VIOLATION OF
POSTING/TRANSFER POLICY AND CIRCULAR DATED
27.12.2013. ANY OTHER REMEDY WHICH THIS AUGUST

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**TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY
ALSO BE AWARDED IN FAVOUR OF APPELLANT.**

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant being Senior clerk (BPS-14) working as Head Clerk/Account Clerk (BPS-14) in the office of DHO North Waziristan and performing his duty with great devotion and honesty whatsoever assigned to him.
2. That the appellant was posted as Head Clerk/Accountant BPS-14 in the office of DHO North Waziristan Tribal District vide order dated 11.08.2020. (Copy of order dated 11.08.2020 is attached as Annexure-A)
3. That respondent No.4 passed another order dated 24.08.2020, whereby the appellant was posted as Account Clerk in the office of DHO North Waziristan Tribal District and Junior Clerk namely Amjid Saleem was directed to continue his duty as Head Clerk in the office of DHO North Waziristan Tribal District Miranshah. (Copy of order dated 24.08.2020 is attached as Annexure-B)
4. That just after 18-days, the order dated 24.08.2020 was suspended by relieving the appellant of his charge/duty and Amjid Saleem, who is junior clerk (BPS-11) has given the charge of Head Clerk/Account Clerk in the office of DHO North Waziristan Tribal District through an order dated 10.09.2020. (Copy of order dated 10.09.2020 is attached as Annexure-C)
5. That the appellant being aggrieved from the order dated 10.09.2020 filed service appeal No. 3423/2021 against the impugned transfer order dated 10.09.2020 along with the suspension application in this Honourable Service Tribunal, which was fixed for preliminary hearing on 16.03.2021. The Honourable Service Tribunal admitted the appeal of the appellant for regular hearing and also suspended the impugned order to the extent of the appellant on the date fixed i.e 16.03.2021. (Copies of service appeal No. 3423/2021 along with suspension application and order sheet dated 16.03.2021 are attached as Annexure-D&E)
6. That in the compliance of the suspension order dated 16.03.2021 of the Honourable KP Service Tribunal, the appellant was posted as Head Clerk/Accountant in the office of the DHO North Waziristan Vide order dated 16.04.2021. (Copy of order dated 16.04.2021 is attached as Annexure-F)

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7. That inquiry was conducted by Provincial Inspection Team regarding illegal appointment/regularization made by Dr. Hameedullah Ex-DHO North Waziristan and on the basis of inquiry report certain recommendations along with the transfer of clerical staff working in the office of DHO, North Waziristan have given to respondent No.2 for implementation by respondent No.1 through a letter dated 22.04.2021 on which respondent No.2 passed an order dated 15.06.2021, whereby the appellant was transferred from DHO office North Waziristan to DHQ Hospital Miranshah despite the fact the appellant is working on the basis of suspension order dated 16.03.2021 of this Honourable Service Tribunal passed in service appeal No.3423/2021 and was never involved in the irregular adjustment/regularization and appointment, which was also endorsed by the respondent No.4 in his letter dated 16.06.2021 to respondent No.2 in which he clearly mentioned that the appellant is honest and obedient Govt: Servant and not involved in any concealment of office record vested interest and nor involved in any irregular adjustment/regularization and appointment. (Copies of letter dated 22.04.2020, transfer order dated 15.06.2021 and letter dated 16.06.2021 are attached as Annexure-G,H&I)
8. That the appellant filed departmental appeal within 7 days as per posting transfer policy through proper channel against the transfer order dated 15.06.2021, which was forwarded to competent authority on 12.07.2021, which is evident from covering letter dated 12.07.2021, but no decision has been taken on his departmental appeal within the stipulated period of time frame of 15 days as per posting transfer policy of the Provincial Government. (Copies of departmental appeal and covering letter dated 12.07.2021 are attached as Annexure-J&K)
9. That the appellant has no other remedy except to file the instant appeal in this Honourable Tribunal for redressal of his grievance on the following grounds amongst others.

GROUND:-

- A) That the impugned transfer order dated 15.06.2021 is against the law, facts, norms of justice material on record, posting transfer policy and circular dated 27.02.2013, suspension order dated 16.03.2021 passed by this Honourable Service Tribunal in service appeal No.3423/2021

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therefore, not tenable and liable to be set aside to the extent of the appellant and private respondent No.5.

B) That the appellant is working on the basis of suspension order dated 16.03.2021 granted by the Honourable KP Service Tribunal in service appeal No. 3423/2021 and his case is pending before the Honourable Tribunal, but despite that the impugned transfer order dated 15.06.2021 was passed by the respondent No.2, which is against the norms of justice and fair play.

C) That the appellant was transferred on the basis of report of Provincial Inspection Team by conducting inquiry in the illegal appointment/regularization in the office of DHO North Waziristan, but the respondent No.4 mentioned in his letter dated 16.06.2021 that the appellant is honest and obedient Govt: Servant and not involved in any concealment of office record vested interest and nor involved in any irregular adjustment/regularization and appointment, which means that the appellant has been punished for the fault of the others by transferring him through impugned order dated 15.06.2021.

D) That respondent No.1 wrote a letter dated 11.11.2020 to Director Anti-Corruption Establishment Khyber Pakhtunkhwa for initiation of criminal proceeding/filing of FIR against Dr. Hameed Ullah Ex-DHO North Waziristan, Dr. Israr Ul Haq Ex-DHO North Waziristan, Amjid saleem Junior, Niamat Ullah, Muhammad Alim Shah and other beneficiaries on the basis of complaint and report of inquiry committee regarding illegal appointment made by the DHO North Waziristan without fulfilling codal formalities/bogus Diploma holders, which shows that the name of the appellant was not mentioned in the letter dated 11.11.2020, but despite that the appellant has made scape goat by transferring him from DHO office North Waziristan to DHQ Hospital Miranshah. (Copy of letter dated 11.11.2020 is attached as Annexure-L)

E) That the appellant was posted as Account/Head clerk on 24.08.2020, but was relived just after 18-days by suspending the order dated 24.08.2020 through order dated 10.09.2020, which was suspended by the Honourable Service Tribunal on 16.03.2021, but he was again transferred on 15.06.2021, which is clear violation of posting/transfer policy and circular dated 27.02.2013 and as such the impugned transfer dated 15.06.2021 is liable to be set aside to the extent of the appellant and private respondent No.5. (Copies of posting transfer policy and circular dated 27.02.2013 are attached as Annexure-M&N)

F) That the impugned transfer order is premature as the appellant has not completed his normal tenure on his post as per posting transfer policy and premature transfer is discouraged by the superior courts in plethora of judgments and as such the impugned transfer order is liable to be set aside to the extent of the appellant and private respondent No.5 on this ground alone.

G) That the appellant was frequently transferred in short span of one year which also shows the malafide of the respondents and due to the frequent transfer orders, the appellant did not perform his duty to best of his ability and capability.

H) That the appellant was transfer on the basis of inquiry conducted against other officials, but no one can be transferred on the basis of complaint/ administrative ground and such like transfers are discouraged by courts in its judgments.

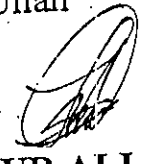
I) That the appellant seeks permission of this Honorable Tribunal to advance others grounds and proofs at the time of hearing.

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



APPELLANT
Saeed Ullah

THROUGH:



(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2021

Saeed Ullah

V/S

Health Deptt:)

**APPLICATION FOR SUSPENDING THE
OPERATION OF ORDER DATED 15.06.2021 TO
THE EXTENT OF THE APPELLANT AND
PRIVATE RESPONDENT NO.5 TILL THE
DECISION OF MAIN APPEAL.**

RESPECTFULLY SHEWETH

1. That the appellant has filed an appeal along with this application in which no date is fixed so for.
- J) That the appellant is working on the basis of suspension order dated 16.03.2021 granted by the Honourable KP Service Tribunal in service appeal No. 3423/2021 and his case is pending for adjudication before the Honourable Tribunal, but despite that the impugned transfer order dated 15.06.2021 was passed by the respondent No.2, which is against the norms of justice and fair play.
2. That the appellant was transferred on the basis of report of Provincial Inspection Team by conducting inquiry in the illegal appointment/regularization in the office of DHO North Waziristan, but the respondent No.4 mentioned in his letter dated 16.06.2021 that the appellant is honest and obedient Govt: Servant and not involved in any concealment of office record vested interest and nor involved in any irregular adjustment/regularization and appointment, which means that the appellant has been punished for the fault of the others by transferring him through impugned order dated 15.06.2021.
3. That the impugned transfer order is premature as the appellant has not completed his normal tenure on his post as per posting transfer policy and such premature transfer is discouraged by the superior courts in

29 20

plethora of judgments and as such the impugned transfer order is liable to be suspended to the extent of the appellant and private respondent No.5 on this ground alone.

4. That the appellant was frequently transferred in short span of one year which also shows the malafide of the respondents and due to the frequent transfer orders, the appellant did not perform his duty to best of his ability and capability.
5. That the appellant has a good prima facie case and all the three ingredients are in favour of the appellant.
6. That the grounds of main appeal may also be considered as integral part of this application.

It is therefore most humbly prayed that on the acceptance of this application the operation of the order dated 15.06.2021 may be suspended to the extent of the appellant and private No.5 till the decision of main appeal.



APPELLANT

THROUGH:



(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

I 20
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BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR



APPEAL NO. 7085 /2021

Khyber Pakhtunkhwa
Service Tribunal

Saeed Ullah, Head Clerk/Account Clerk (BPS-14),
Office of DHO, North Waziristan, Tribal District.

Diary No. 7363

Dated 27/7/2021

(APPELLANT)

VERSUS

1. The Secretary to Govt: of Khyber Pakhtunkhwa, Health Department.
2. The Director General Health Service, K.P.K, Peshawar.
3. The Director Health Service Merged Areas Peshawar.
4. The District Health Officer, North Waziristan Tribal District.
5. Mr. Mutabar Khan, DHQ Hospital Miranshah.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE KHYBER
PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST
THE ORDER DATED 15.06.2021, WHEREBY THE
APPELLANT WAS PREMATURELY TRANSFERRED FROM
DHO OFFICE NORTH WAZIRISTAN TO DHQ HOSPITAL
MIRANSHAH AND AGAINST NOT TAKING ACTION ON
THE DEPARTMENTAL APPEAL WITHIN 15 DAYS AS PER
POSTING TRANSFER POLICY.

PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL, THE
IMPUGNED ORDER DATED 15.06.2021 MAY KINDLY BE
SET ASIDE TO THE EXTENT OF THE APPELLANT AND
PRIVATE RESPONDENT NO.5 BEING PREMATURE AND IN
THE VIOLATION OF POSTING/TRANSFER POLICY AND
CIRCULAR DATED 27.12.2013. THE RESPONDENTS MAY
FURTHER BE DIRECTED NOT TO TRANSFER THE
APPELLANT PREMATURELY AND IN VIOLATION OF
POSTING/TRANSFER POLICY AND CIRCULAR DATED
27.12.2013. ANY OTHER REMEDY WHICH THIS AUGUST

Filed to-day
Registrar
27/7/2021

Certified to be true
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

30.07.2021

Appellant present through counsel.

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Amjad Saleem alongwith his counsel present and submitted application seeking impleadment in the present service appeal. The application has been placed on file.

Keeping the order of impleadment application pending for want of reply of appellant. Preliminary arguments have been heard and record perused.

Points raised need consideration. Subject to all just and legal objections, this appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notice be issued to the respondents for submission of reply/comments in office within 10 days of the receipt of notices positively. If the 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 on 20.08.2021 before the D.B. The appellant is directed to submit reply of the impleadment application within 10 days in office. In case of non-compliance, the office shall submit a report of non-compliance.

Appellant Deposited Security & Process Fee

09/8/21

Alongwith the appeal, an application has been submitted for interim relief seeking suspension of operation of impugned order to the extent of appellant. An application has been submitted for suspension of the impugned order. Operation of the impugned order is suspended till next date subject to notice to the respondents:

(Rozina Rehman)
Member (J)

Chairman

Certified to be true copy

SEAL
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Date of Presentation of Application 21-6-22
Number of Words 800
Copying Fee 10/-
Urgent 4/-
Total 14/-
Name of Copyist
Date of Completion of Copy 21-6-22
Date of Delivery of Copy 21-6-22



DIRECTORATE GENERAL HEALTH SERVICES
KHYBER PAKHTUN KHWA PESHAWAR

FORM ADDRESS GUIDED BY THE OFFICE OF THE DIRECTOR GENERAL HEALTH SERVICES, PESHAWAR. 091-9210120. 091-9210120

OFFICE ORDER

In pursuance of the Khyber Pakhtunkhwa Peshawar Service Tribunal in appeal No. 7085/2021, the posting/ transfer order in respect of Mr. Saeed uljaha Senior Clerk issued vide this Directorate Office Order bearing Encl: No. 3659-86/Personnel dated 15.06.2021, at S.No.01 is hereby suspended till further order.

Sd/xxxxxx
DIRECTOR GENERAL HEALTH SERVICES, K.P.K PESHAWAR.

Dated 1/09/2021

No. 5182-87/Personnel
Copy forwarded to them

1. Registrar Khyber Pakhtunkhwa Service Tribunal Peshawar.
2. DHO North Waziristan w/r to his letter No. 12526/PF/DHO/NWTD dated 16.07.2021.
3. M.S DHO Hospital Miranshah.
4. Assistant Director (III) DOHS Office Peshawar w/r to his order: No. 2066-68/Ltr dated 04.08.2021.
5. Assistant Director (Administrative) DOHS Office Peshawar.
6. Official Concerned.

For information and necessary action.

[Handwritten signature]
DIRECTOR GENERAL HEALTH SERVICES, K.P. PESHAWAR.
8/09/2021

[Handwritten marks]



KHYBER PAKHTUN KHWA PESHAWAR

E-Mail Address: nw/pdghs@yahoo.com office Ph# 091-9210269 Exchange# 091-9210187, 9210196 Fax # 091-9210230

[Handwritten marks and numbers]
33

OFFICE ORDER

As approved by the competent authority Mr. Saeedullah Senior Clerk attached to DHO office North Waziristan, is hereby directed to assume charge of Head Clerk in DHO office North Waziristan in the interest of public service with immediate effect.

Nb: Arrival/departure report should be submitted to this Directorate for record.

Sd/xxxxxxxxxx

DIRECTOR GENERAL HEALTH SERVICES, K.P, PESHAWAR.

Dated 04/10 /2021.

No 6123-26 /Personnel

Copy forwarded to the:-

1. DHO North Waziristan w/r to his letter No. 14606/PF dated 08.09.2021 .
2. PA to DGHS, KP Peshawar.
3. DAO North Waziristan.
4. Official Concerned.

For information and necessary action.

DIRECTOR GENERAL HEALTH SERVICES, K.P PESHAWAR

Head Clerk
for compliance and
proper file record.

[Handwritten signature]
06/10/2021



OFFICE OF THE DISTRICT HEALTH OFFICER
TRIBAL DISTRICT AT MIRANSHAH

Tel: (0928) 300788 FAX: (0928) 311662

Email: agency surgeon nwa2018@gmail.com

OFFICE ORDER:

Mr. Muhammad Mukhtar Computer Operator BPS-16, working under the control of the undersigned is hereby assigned the duty of head clerk / account clerk of DHO Office NWTB, with immediate effect in the best interest of public.

Mr. Saeedullah EX-Head clerk/ Account Clerk is hereby directed to hand over the charge of Account matters, to Mr. Muhammad Mukhtar within 03 days positively through proper handing over / taking over.

Sd/XXX

District Health Officer
North Waziristan Tribal District


No. 866-70/DHO/MRN,

dated

11/03/2022.

Copy forwarded to the:

1. Director General Health Services Khyber Pakhtunkhwa, Peshawar for information.
2. Deputy Commissioner, North Waziristan Tribal District.
3. District Account Officer, North Waziristan, TD.
4. Mr. Saeedullah ex-head clerk/Account clerk with the direction to hand over all the record i.e Cash Book, cheque books, ADP Salary bills, contingency bills, expenditures both development/regular developmental record, complete full record within 03 days positively.
5. Official concerned for strict compliance.


District Health Officer
North Waziristan Tribal District

The Director General Health Services
KPK Peshawar



APPEAL - ILLEGAL POSTING OF COMPUTER OPERATOR OF THE
POST OF HEAD CLERK/ACCOUNTANT DHO OFFICE NORTH
WAZIRISTAN TRIBAL DISTRICT

SUBJECT:
R/Sir

Most respectfully, It is stated that I was working as Head Clerk / Accountant DHO Office NW/ TD for the last 5/6 Months vide Director General Health Services, KPK Peshawar Order No. 6123-26 dated 04/10/2021, and not completed my normal tenure and One computer operator was posted as Head Clerk / Accountant DHO Office NW/ TD vide DHO NW Miranshah Order No. 6123-26 dated 11/03/2022 which is not according to the rules and policy as under:-

- 1. That the posting of Computer Operator against the post of Head Clerk/Accountant is illegal and unlawful and a clear violation of posting/transfer rules and policy.
- 2. That the Job Description of the Computer operator is very clear and posting of Accountant is violation of posting/transfer policy and also effected the basic rights of Computer Operator in DHO Office NW/ TD.
- 3. That normal transfer/posting tenure is Three (3) years and I completed my normal tenure.
- 4. That I am Senior Clerk in BPS-14 and already posted drawing salary in the post of Head Clerk BPS-14 and senior most through-out in North Waziristan and have good experience in office administration, dealing accounts matters and Development.
- 5. That there is NO inquiry, Anti-Corruption, NAB case or any other pending case against me in any competent authority. I have issued good performance Certificate in the past (see the attached reference).

Therefore, you are requested that my illegal/unlawful posting may be cancelled and allowed me to continue my duty as Head Clerk/Accountant in the interest of public service please.

Dated: 12/03/2022

THANKS

(Signature)
[Illegible Name]
[Illegible Title]

To

The Director General Health Services

KPK, Peshawar

SUBJECT:- APPEAL ILLEGAL POSTING OF COMPUTER OPERATOR ON THE POST OF HEAD CLERK /ACCOUNTANT DHO OFFICE NORTH WAZIRISTAN TRIBAL DISTRICT.

R/Sir,

Most respectfully, it is stated I was working as Head Clerk/Accountant office NW TD for the last 5/6 Months vide Director General Health Services, KPK Peshawar office order No. 6123-26 dated 04.10.2021, and not completed my normal tenure and one computer operator were posted as Head Clerk / Accountant DHO office NW TD vide DHO Miran Shah order No. 866-20/DHO dated 11.03.2022 which is not according to the rules and policy as under:-

1. That the posting of Computer Operator, against the post of Head Clerk/Accountant, illegal, unlawful and unjustified and clear violation of posting/transfer rules and policy.
2. That the job Description of the Computer operator is very clear and posting as Appointment violation of posting transfer policy and also effected the basic rights of Clarified Staff/Senior Clerk in DHO office NW TD.
3. That normal transfer/posting tenure is three years and I complete my only 5/6 months.
4. That I am a senior clerk in BPS-14 and already posted/drawing salary on the post of Head Clerk BPS- 14 and senior most to out in North Waziristan and has good experience staff administration dealing account matter and development etc.
5. That there is no inquiry Inti Corruption, NAB cases etc has been pending against me and the competent authority has issued good performance Certificate, in this record absence close and much reference.

Therefore, you are requested that my illegal/unlawful transferred order dated 11.03.2022 kindly may be cancelled and, allowed me to continue my duty and Head Clerk in DHO Office NW TD to be instead of public service please.

Dated 12.03.2022

THANKS



**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 posting/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 atleast eighteen months in each grade. This should start from senior most scales/grades downwards in each scale/grade of each cadre.
- vii) Officers may be posted on executive/administrative posts in the Districts of their domicile except District Coordination Officers (D.C.Os) and DPOs/Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where the Police Station (Thaana) of his area/residence is situated.

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)1-4/2003, dated 21-09-2004

ATTESTED

mushkulawnti

- viii) No posting/transfers of the officer's/officials on detailment basis shall be made.
- ix) Regarding the posting of husband/wife, both in Provincial services, efforts where possible would be made to post such persons at one station subject to the public interest.
- x) All the posting/transferring authorities may facilitate the posting/transfer of the unmarried female government Servants at the station of the residence of their parents.
- xi) Officers/officials except DCOs and DPOs/SPs who are due to retire within one year may be posted on their option on posts in the Districts of their domicile and be allowed to serve there till the retirement
 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-18 & 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:	

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

ATTESTED

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

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

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

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

- i) Pre-mature 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.

ATTESTED

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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.

SPECIMEN NOTIFICATION.

GOVERNMENT OF NWFP
NAME OF ADMINISTRATIVE
DEPARTMENT

Dated Peshawar: _____

NOTIFICATION

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

CHIEF SECRETARY
GOVERNMENT OF NWFP

Encl. No. and date even.
Copy forwarded

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

ATTESTED

ATTESTED

(NAME)
SECTION OFFICER
Administrative Department

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

The competent authority has been pleased to direct that Para 1(v) of the Posting/Transfer Policy contained in this Department letter No:SOR-I (E&AD) 1-1/85 Vol-II, dated 15-2-2003 shall stand deleted, with immediate effect, consequently allowing the authorities, competent under the NWFP Government Rules of Business, 1985 and the District Government Rules of Business, 2001 or any other rules for the time being in force, to make posting/transfers of Government servants, any time during the year, in genuinely deserving and necessary cases, in public interest, subject to strict observance of all other provisions of posting/transfer policy contained and notified vide circular letter under reference. Hence there will be no ban on posting/transfer of Government Servants in any part of the year while carrying out postings/transfers of Government Servants.

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

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

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

.....
According to the policy of the provincial Government, maximum tenure on a post is three years. Contrary to the Policy, Store Keepers, Cashiers, Accountants and other ministerial staff remains posted in their particular field for long time, which may result in misuse of this position, due to which not only public exchequer may sustain loss but general public also suffers. The Provincial Government has taken serious notice of this situation & decided that all Administrative Secretaries and DCOs may submit a certificate within one month to the effect that above mentioned officials, having completed three years on their posts, have been adjusted on posts other than those they held previously.
(Authority: Urdu circular No: SOR-VI (E&AD) 105 dated 28th Oct, 2005.)
.....

The Chief Minister NWFP has directed that:-

- i) Submission of summary would not be required in case of mutual transfer.
- ii) Posting/transfer shall be made according to the policy;
- iii) Government Servants shall avoid direct submission of applications to the Chief Minister;
- iv) In genuinely deserving case, they should approach the Administrative Secretaries who could process the case according to policy;

ATTESTED

- v) In case of direct submission of application to the Chief Minister Secretariat for Posting/ Transfer, the concerned govt servants shall be proceeded against under the prevalent rules and regulations.

(Authority: Urdu circular No: SOR-VI/E&AD/1-4/2003, dated 86-2004.
Urdu Letter No: SOR-VI/E&AD/Misc: /2005, dated 3-1-2005.)

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

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

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

The competent authority has decided that in order to maintain discipline, enhance performance of the departments and ensure optimum service delivery to the masses, the approved /prevalent policy of the posting/transfer shall be strictly followed. Government Servants violating the policy and the NWFP Govt Servants (Conduct) Rules 1987 shall be proceeded against under the NWFP Removal from Service (Special Powers) Ordinance 2000. As required under the NWFP Govt Rules of Business 1985, the Administrative Secretaries shall ensure compliance with the policy and defaulting offices/officials be taken to task & entries to this effect shall be made in their PERs/ACRs. In case subordinate officers are working on sites or proceeding for the purpose of inspection, they shall submit inspection Report to their Administrative Secretariat. Administrative Secretaries shall ensure submission of such reports.

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

PLACEMENT POLICY.

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

- i) All placements would be made on the basis of merit and keeping in view the needs of the organization.
- ii) The first priority in placement must go to the parent organization of the participant from where the individual had applied. This will be in consonance with the concept of establishing the "Need" for the department and fulfilling the need through "capacity building for the organization.
- iii) In order to follow the "bottom up approach" for Devolution, the priority within departments must go to the Districts, the Provinces and then the Federal Government.
- iv) The second priority in placement should go to up-grading the existing training Institution within the country. The knowledge gained by the

Placement Policy has been made part of the posting/transfer policy vide Urdu circular No SOR-VI/E&AD/1-4/06, dt 9-9-2007

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officers, will be of immense value to bring about a qualitative change in the training institutions. The following proposals are made in this regard:

- a) Permanent posting of an officer to the training institutions for 2-3 years;
 - b) Temporary attachment with the training intuitions for 3 to 6 months for some research project on helping in developing case studies;
 - c) Earmarked as a visiting faculty member for specific subject.
-
- v) Individuals posted to their parent organizations will also organize training for their subordinates within the department, in order to transfer the knowledge and bring about a qualitative change internally;
 - vi) The Normal tenure of posting as already provided in the policy would be ensured;
 - vii) No participant should be allowed to be posted on deputation to multinational donor agencies for at least 5 years;
 - viii) No participant will decline/represent against his/her posting.

ATTESTED

ATTESTED

Handwritten notes and signatures at the top of the page, including a large signature and several circled numbers (20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43).

GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT
(REGULATION WING)
NO. SOR.VI (E&AD)1 -4/2005/Vol-II
Dated Peshawar, 27th February, 2013

Vertical stamp: Government of Khyber Pakhtunkhwa, Establishment Department, Peshawar. File No. 128/2013.

To
Handwritten signature

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

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

Sir,

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

(i) **Appointments, Removals and Promotions:** Appointments, removals and promotions must be made in accordance with the law and the rules made thereunder, where no such law or rule exists and the matter has been left to discretion, such discretion must be exercised in a structured, transparent and reasonable manner and in the public interest.

Handwritten initials 'ST'

Handwritten initials 'SP'

(ii) **Tenure, Posting and Transfer:** When the ordinary tenure for a posting has been specified in the law or rules made thereunder, such tenure must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable.

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Handwritten signature and initials

ATTESTED

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(iii) **Illegal Orders:** Civil Servants owe their first and foremost allegiance to the law and the constitution. They are not bound to obey orders from superiors which are illegal or are not in accordance with accepted practices and rule based norms; instead, in such situations, they must record their opinion and, if necessary, dissent.

(iv) **OSD:** Officers should not be posted as OSD except for compelling reasons, which must be recorded in writing. If at all an officer is to be posted as OSD, such posting should not exceed 03 months. If there is a disciplinary inquiry going against him/her such inquiry must be completed at the earliest. The officer on special duty may be posted against a post of his/her equivalent pay scale/grade within 03 months of his/her order as OSD.

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

Yours faithfully,

NAJAM
(NAJ-MUS-SAHAR)
SECTION OFFICER (REG-VI)

Encl: as above.

A copy is forwarded to:-

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

NAJAM
SECTION OFFICER (REG-VI)

VAKALAT NAMA

NO. _____/2021

IN THE COURT OF KP Service Tribunal, Peshawar

Saeed Ullah (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Health Dept (Respondent)
(Defendant)

I/We, Saeed Ullah

Do hereby appoint and constitute **Taimur Ali Khan, Advocate High Court 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 costs.


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. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated _____/2021



(CLIENT)

ACCEPTED


TAIMUR ALI KHAN
Advocate High Court
BC-10-4240

CNIC: 17101-7395544-5
Cell No. 0333-9390916

OFFICE:

Room # FR-8, 4th Floor,
Bilour Plaza, Peshawar,
Cantt: Peshawar

"A"

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

No.

937

APPEAL No. of 20

22

Saeed ullah

Appellant/Petitioner

Versus

Sey to Govt of KPK Health Deptt:

RESPONDENT(S)

Respondent (2)

DG Health Service Peshawar

Notice to Appellant/Petitioner

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 19/07/2022 at 9:00 am

(Copy Attached)

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

"A"

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

No.

937

SB

APPEAL No. of 20²²

Saeed Ullah

Appellant/Petitioner

Versus

Secy to Govt of KP Health Deptt:

RESPONDENT(S)

Respondent (3)

Director Health Service

Notice to Appellant/Petitioner

Maged Areas Peshawar

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 14/07/2022 at 9:00 AM

(Copy Attached)

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.



Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

"A"

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

SB

No.

937

APPEAL No..... of 20^{*22*}.

Saeed ulloh

Appellant/Petitioner

Versus

Secy to Govt of KPK- Health Department

RESPONDENT(S)

Respondent (1)

Secy to Govt of KPK

Notice to Appellant/Petitioner

Health Department

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on *14/07/2022* at *9:00 am*

(Copy Attached)

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

*Received today
on 13-07-2022 at
11:33 AM (Signature)
13-07-2022*

(Signature)

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

"A"

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

No.

APPEAL No. 937 of 20 22

Saeed ullah

Appellant/Petitioner

Versus

The Secy. to Govt. of KPK Health Dept.

RESPONDENT(S)

Respondent No. 1

The Secretary to Govt. of KPK

Notice to Appellant/Petitioner

Health Dept. Peshawar.

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 2/8/22 at 9.00 am

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

Pre-admission notice for Reply

[Signature]
25/7

[Signature]

Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

"A"

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD, 5.13
PESHAWAR.

No. 937 of 20 22
APPEAL No. Saeedullah

Appellant/Petitioner

Versus

The Secy. to Govt. of KPK Health Deptt.

RESPONDENT(S)

Respondent No. 2 The Director General Health
Services KPK Peshawar.

Notice to Appellant/Petitioner

Take notice that your appeal has been fixed for Preliminary hearing, replication/18/12affidavit/counter affidavit/record/arguments/order before this Tribunal on at

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

Pre-Admission Notice
for Reply

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.



"A"

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

No.

APPEAL No..... 937 of 20 22

Saeed ullah

Appellant/Petitioner

Versus

The Secy. to Govt. of KPK Health Deptt.

RESPONDENT(S)

Respondent No. 3
Notice to Appellant/Petitioner

The Director Health Services
Merged Areas Peshawar.

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 2/8/22 at 9 am.

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.

Pre-Admission Notice
for Reply

[Signature]
Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

