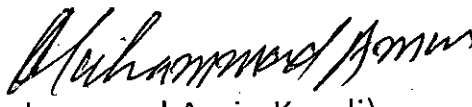
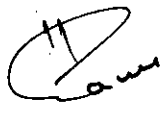


16.05.2018

Learned counsel for the appellant and Mr. Kabir Ullah Khattak, learned Additional Advocate General present.

Learned counsel for the appellant stated that the grievance of the appellant has been redressed and as such the present appeal has become infructuous. Consequently the present service appeal is hereby dismissed having become infructuous. No order as to costs. File be consigned to the record room.


(Muhammad Amin Kundi)
Member


(Muhammad Hamid Mughal)
Member

115

35/18

09.04.2018

Appellant alongwith counsel and Mr. Ziaullah, DDA for the respondents present. Due to incomplete Bench, arguments could not be heard. To come up for rejoinder and arguments on 13.04.2018 before the D.B. Status quo be maintained till the date fixed.



(M.Amin Khan Kundi)
Member

13.04.2018

Appellant alongwith counsel and Ziaullah, Deputy District Attorney for the respondents present. The court time is over. Adjourned. To come up for arguments on 26.04.2018 before the D.B. Status quo be maintained.



Member



Chairman

26.04.2018

Junior to counsel for the appellant and Mr. Muhammad Jan, Learned Deputy District Attorney present. The Tribunal is non functioned due to retirement of Hon'ble Chairman. Therefore the case is adjourned. To come up for the same on 16.05.2018.



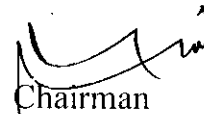
READER

15.03.2018 Appellant in person present. Mr. Kabir Ullah Khattak, Additional AG for the respondent present. The present appeal the appellant has made impugned transfer/posting order dated 16.10.2016 and status-quo order was also issued on previous dates. In the stated circumstances the present case is fixed before D.B for further proceedings on 30.03.2018 Notice be issued to the respondent department for attendance.



(Muhammad Hamid Mughal)
Member

30.03.2018 Appellant alongwith counsel and Mr. Ziaullah, DDA alongwith Faiz Muhammad, Assistant for the respondents present. The departmental representative submitted reply on behalf of the respondents. Learned counsel for the appellant drew the attention of this Tribunal towards execution petition submitted on 08.02.2018. No reply has been submitted by the departmental representative on the execution petition. Copy provided to the departmental representative today and he is directed to file reply on the next date. Status quo be maintained till the date fixed and the respondents are directed to release salary of the appellant forthwith. To come up for rejoinder and arguments on 09.04.2018 before the D.B.



Chairman

25.01.2018

Learned counsel for the appellant present. Mr. Kabir Ullah Khattak, Learned Additional Advocate General for the respondents present. Written reply not submitted. None present on behalf of the respondent department. Learned AAG seeks adjournment to file written reply/comments. Adjourned. To come up for written reply/comments on 08.02.2018 before S.B. status quo be maintained till the date fixed.



(Muhammad Hamid Mughal)
MEMBER

08.02.2018

Appellant with counsel and Addl: AG for respondents present. Written reply not submitted. Requested for adjournment. Counsel for the appellant submitted an execution petition for directing the respondents to implement the order dated 10.01.2018 of this Tribunal. Notice of the same be also issued to the respondents. To come up for written reply on main appeal as well on execution petition on 28.02.2018 before S.B. Status quo be maintained till the date fixed.



(Ahmad Hassan)
Member(E)

28.02.2018

Counsel for the appellant and Addl:AG for respondents present. Written reply not submitted. Notices be issued to the respondents. Last opportunity granted. To come up for written reply on 15.03.2018 before S.B.



(Ahmad Hassan)
Member (E)

10.01.2018

Counsel for the appellant present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant is serving in Health Department as Superintendent. It was further contended that earlier the appellant was transferred from Khyber Teaching Hospital Peshawar against the vacant in the office of Director Health Services FATA vide order dated 25.09.2017. It was further contended that just after 10 days the appellant was again transferred from the office of Director Health Services FATA to the post of Office Superintendent at AHQ Hospital Parachinar vide impugned order dated 06.10.2017 without completion of his normal tenure. It was further contended that the impugned order was passed by the Director Health Service FATA while the competent authority for transfer/posting of the appellant is Secretary Health. It was further contended that the appellant is going at LPR on 21.02.2018 as inserted the appellant in para-E of the service appeal therefore, the impugned order is illegal and liable to be set-aside. It was further contended by learned counsel for the appellant that the appellant has not yet relinquish the charge.

The contentions raised by learned counsel for the appellant need consideration. The appeal is admitted for regular hearing subject to deposit of security and process fee within 10 days, thereafter notice be issued to the respondents for written reply/comments for 25.01.2018 before S.B. Notice of application for suspending the operation of order dated 06.10.2017 be also issued to the respondents for the date fixed. In the meanwhile status-quo be maintained till the date fixed.



M Amin

(Muhammad Amin Khan Kundi)
Member

Appellant Deposited
Security & Process Fee

Form-A
FORM OF ORDERSHEET

Court of _____
Case No. 35/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	9/1/2018	<p>The appeal of Mr. Mushtaq Ahmad presented today by Mr. Muhammad Asif Yousafzai Advocate, may be entered in the Institution Register and put up to Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 9/1/18</p>
2-	09/01/18	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>10/01/18</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 35 /2018

Mushtaq Ahmad

V/S


Health Deptt: (FATA)

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4.	Copy of order dated (6.10.2017)	B	8
5.	Copy of departmental appeal	C	9-10
6.	Copy of posting transfer policy	D	11-17
7.	Copy of circular dated (27.2.2013)	E	18-19
8.	Copy of medical prescription	F	20-24
9.	Vakalat nama	-----	25

APPELLANT

THROUGH:


M.ASIF YOUSAFZAI
(ADVOCATE SUPREME COURT)

&

TAIMUR ALI KHAN
(ADVOCATE HIGH COURT)

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 35 /2018

Khyber Pakhtukhwa
Service Tribunal

Diary No. 272

Dated 09-01-2018

Mushtaq Ahmad, Superintendent (PBS-17),
Director Health Services (FATA) Peshawar.

(APPELLANT)

VERSUS

1. The Addl: Chief Secretary (FATA), FATA Secretariat, Warsak Road Peshawar.
2. The Secretary Social Sector, FATA Secretariat, Warsak Road Peshawar.
3. The Director Health Services (FATA), Peshawar.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 06.10.2017 WHEREBY THE APPELLANT WAS PREMATURE TRANSFERRED FROM DIRECTOR HEALTH SERVICES (FATA) TO AHQ HOSPITAL PARACHINAR PREMATURELY AND UTTER VIOLATION OF POSTING TRANSFER POLICY, AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

Filed to-day
Registrar
9/1/18.

PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 06.10.2017 MAY BE SET ASIDE BEING, PASSED PREMATURELY AND VIOLATION OF POSTING/TRANSFER POLICY. THE RESPONDENT DEPTT: MAY FURTHER PLEASE BE DIRECTED NOT TO TRANSFER THE APPELLANT PREMATURELY AND IN VIOLATION OF POSTING/TRANSFER POLICY. 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 joined the Health Deptt: as junior Clerk on dated 12.12.1978 and promoted to the rank of Superintendent. The appellant has more than 38 years of service and is at the verge of retirement.
1. That the appellant has performed his duty in different cadre in different stations and has performed his duty upto the entire satisfaction of his superior and no complaint has been filed against him and lastly posted against the vacant post of office Superintendent (BPS-17) in the office of Director Health Services, FATA vide order dated 25.9.2017. **(Copy of order dated 25.9.2017 is attached as Annexure-A)**
2. That the appellant submitted his arrival on 27.9.2017 in the compliance of order dated 25.9.2017 and just after 10 days the Director Health Services again transferred/posted the appellant against the vacant post of office superintendent at AHQ Hospital Parachinar vide order dated 6.10.2017 without completing his normal tenure. **(Copy of order dated 6.10.2017 is attached as Annexure-B)**
3. That as the appellant has transferred/posted just after 10 days from the office Director Health service (FATA) to AHQ Hospital Parachinar, therefore he is aggrieved from said order passed by the Director Health service (FATA) and filed the departmental appeal against the impugned transfer order on 09.10.2017 which was not responded within the statutory period of ninety days. **(Copy of departmental appeal is attached as Annexure-C)**
4. That the now the appellant has no other remedy except to file the instant service appeal on the following grounds amongst other.

GROUND:

- A) That the impugned order dated 6.10.2017 and not taking action on the departmental appeal within the statutory period of ninety days are against the law, facts, norms of justice, premature, violation of posting transfer policy and Govt: circular dated 27.2.2013, therefore not tenable and liable to be set aside.
- B) That according to posting transfer policy, normal tenure for posting is 2 years, but the appellant was transferred from the office Director Health service (FATA) to AHQ Hospital Parachinar, just after 10 days, which is total violation of Govt: posting transfer policy. Thus the impugned order is liable to be set-aside on this score alone. **(Copy of posting/transfer policy is attached as Annexure-D)**

- C) That the transfer of the appellant is also violation of circular based on the Anita Turab case dated 27.2.2013 in which it was clearly mentioned that 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, but in the case of the appellant the tenure was not respected and was posted/ transferred just after 10 days from the office of Director Health Service (FATA) to AHQ Hospital Parachinar without completing his normal tenure at Director Health service (FATA) and without giving compelling reason for such transfer of the appellant by the authority. **(Copy of circular dated 27.2.2013 is attached as Annexure-E)**
- D) That the appellant was transfer/posted by Director Health Service FATA which is not competent authority for the appellant which means that order passed is illegal, unlawful and void-ibi-intio and has no legal effect in the eyes of law.
- E) That the appellant belong to Peshawar District and is at the last leg of his service and his LPR will start in February-2018 and according the posting transfer policy, the civil servant should be adjusted in last year of his/her service in his/her own district of domicile, but he was transferred/posted in such far away area of Parachinar in his last leg of service, which is clear violation of posting transfer policy and principle of justice.
- F) That the appellant is severe Heart patient and have also high Diabetes and posting in such far flung and hilly area will badly affect his health condition as well as performance of his duty in effective way. **(Copy of medical prescription is attached s Annexure-F)**
- A. That impugned transferred order is not based on public interest nor any exigencies, but rather to adjust blue eyed person.
- B. That according to judgment of Supreme Court the departmental appeal of the appellant should be responded as reported in 1991-SCMR-2330, but despite that no action was taken on the departmental appeal of appellant which proves malafide on the part of respondent Deptt;.
- C. That the appellant has not been treated according to law and rules and was transferred to far flung area without observing his last leg of service.

D. 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.


APPELLANT
Mushtaq Ahmad

THROUGH:


M. ASIF YOUSAFZAI
(ADVOCATE SUPREME COURT)

&


TAIMUR ALI KHAN
(ADVOCATE HIGH COURT)

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2017

Mushtaq Ahmad

V/S

Health Deptt: (FATA)

**APPLICATION FOR SUSPENDING THE OPERATION OF
ORDER DATED 06.10.2017 TILL THE DISPOSAL OF MAIN
APPEAL.**

RESPECTFULLY SHEWETH.

1. That the appellant has filed an appeal along with this application in which no date is fixed so far.
2. That impugned transfer order is passed due to prematurely and in violation of posting transfer policy.
3. That the appellant was transfer/posted by Director Health Service FATA which is not competent authority for the appellant which means that order passed is illegal, unlawful and void-ibi-intio and has no legal effect in the eyes of law.
4. That the appellant belong to Peshawar District and is at the last leg of his service and his LPR will start in February 2018 and according the posting transfer policy, the civil servant should be adjusted in last year of his/her service in his/her own district of domicile, but he was transferred/posted in such far away area of Parachinar in his last leg of service, which is clear violation of posting transfer policy and principle of justice.
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.

It is therefore most humbly prayed that the operation of the order dated 06.10.2015 may be suspended till the decision of main appeal.

APPELLANT

THROUGH:



M.ASIF YOUSAFZAI
(ADVOCATE SUPREME COURT)

&

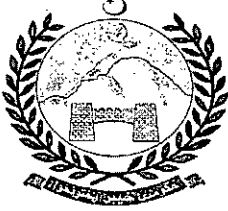


TAIMUR ALI KHAN
(ADVOCATE HIGH COURT)

AFFIDAVIT.

It is solemnly affirmed that the contents of this application are true and correct and nothing has been concealed from this august Tribunal.


DEPONENT



A (7)

**GOVT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT**

Dated the Peshawar 25th September, 2017

NOTIFICATION.

No. SOH-III/3-5/2017. Consequent upon relieving of Mr. Mushtaq Ahmad, Office Superintendent, BS-17 from MTI, KTH, Peshawar vide No. 29069-72/KTH/E, dated: 07-09-2017, he is hereby posted against the vacant post of Office Superintendent BS-17 in office of Director Health Services, FATA with immediate effect in the public interest.

**Secretary to Govt. of Khyber Pakhtunkhwa
Health Department**

Endst of even No and Date.

Copy forwarded to:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Director General, Health Services, Khyber Pakhtunkhwa Peshawar.
3. The Hospital Directors, MTIs, LRH & KTH, Peshawar.
4. PS to Secretary Health, Khyber Pakhtunkhwa.
5. PS to Special Secretary Health, Khyber Pakhtunkhwa.
6. Officer concerned.


Section Officer-III

ATTESTED




DIRECTORATE OF HEALTH SERVICES FATA

FATA SECRETARIAT WARSAK ROAD PESHAWAR

PH # 091-9210212

FAX # 091-9212110

B (8)

OFFICE ORDER

Consequent upon his arrival in this Directorate on 27-9-2017, in compliance to Provincial Health Department Notification No. SOH-III/3-5/2017 dated 25-9-2017, Mr. Mushtaq Ahmad Office Superintendent (BS-17), is hereby posted against the vacant post of Office Superintendent at AHQ Hospital Parachinar in the interest of public service w.e from his date of arrival in this Directorate.

-- / --

Director Health Services,
FATA, Peshawar.

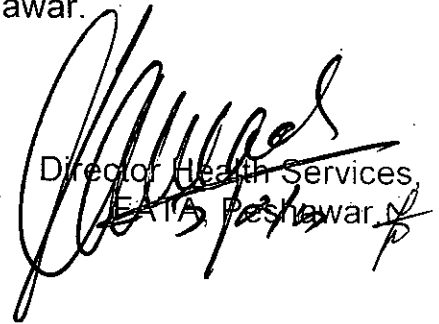
No 19030-35/DHS/FATA/Admin

Dated 06 / 10 / 2017

Copy forwarded to the:-

1. Director General Health Services Khyber Pakhtunkhwa Peshawar.
2. Deputy Director (Admin) DHS FATA.
3. Medical Superintendent AHQ Hospital Parachinar.
4. Agency Accounts Officer Kurram Agency.
5. PS to Secretary Health, Khyber Pakhtunkhwa Peshawar.
6. Officer concerned.

For information and further necessary action.


Director Health Services,
FATA, Peshawar.

ATTESTED


To

The Secretary Social Sector, (FATA),
FATA Secretariat, Warsak Road Peshawar.

C 9

SUBJECT: DEPARTMENTAL APPEAL AGAINST THE ORDER DATED 06.10.2017, WHEREBY THE APPELLANT WAS TRANSFERRED FROM FATA SECRETARIAT TO AHQ HOSPITAL PARACHINAR JUST AFTER 10 DAYS IN UTTER VIOLATION POSTING TRANSFER POLICY.

Respected Sir,

1. That the appellant joined the Health Deptt: as junior Clerk in 1978 and promoted to the rank of Superintendent and performed his duty up to the entire satisfaction of his Superiors and no complaint has been filed against him. The appellant has more than 38 years of service and at the verge of retirement.
2. That the appellant has performed his duty in different cadre in different stations and lastly posted *against the vacant post* of office Superintendent (BPS-17) in the office of Director, Health Services, FATA vide order dated 25.9.2017. (Copy of order dated 25.9.2017 is attached as Annexure-A)
3. That the appellant submitted his arrival on 27.9.2017 in the compliance of order dated 25.9.2017 and just after 10 days the Director Health Services again transferred/posted the appellant against the vacant post of office superintendent at AHQ Hospital Parachinar vide order dated 6.10.2017. (Copy of order dated 6.10.2017 is attached as Annexure-B)
4. That as the appellant has transferred/posted just after 10 days from the office Director Health service (FATA) to AHQ Hospital Parachinar, therefore he is aggrieved from said order passed by the Director Health service (FATA) and wants to file the departmental appeal on the following grounds.

GROUND:

- A) That the impugned order dated 6.10.2017 is against the law, facts, norms of justice, premature, violation of posting transfer policy and Govt: circular dated 27.2.2013, therefore not tenable and liable to be set aside.
- B) That according to posting transfer policy, normal tenure for posting is 2 years, but the appellant was transferred from the office Director Health service (FATA) to AHQ Hospital Parachinar, just after 10 days which is total violation of Govt: posting transfer policy. Thus the impugned order is liable to be set-aside on this score alone.

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- 10
- C) That the transfer of the appellant is also violation of circular based on the Anita Turab case dated 27.2.2013 in which it was clearly mentioned that 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, but in the case of the appellant the tenure was not respected and was posted/transferred just after 10 days from the office of Director Health Service (FATA) to AHQ Hospital Parachinar without completing his normal tenure at Director Health service (FATA) and without giving compelling reason for such transfer of the appellant by the authority.
- D) That the appellant was transfer/posted by Director Health Service FATA which is not competent authority for the appellant which means that order passed is void ibi intio and has no legal effect in the eyes of law.
- E) That the appellant is at the last leg of his service and his LPR will start in February 2018 and belong to Peshawar District and according the posting transfer policy, the civil-servant should be adjusted in last year of his/her service in his/her own district of domicile, but he was transferred/posted in Parachinar in his last leg of service which is clear violation of posting transfer policy.
- F) That the appellant is severe Heart patient and have also high Diabetes and posting in such far flung and hilly area will badly affect his health condition as well as performance of his duty in effective way. **(Copy of medical prescription is attached s Annexure-C)**

It is therefore, most humbly requested that impugned transferred/posted order dated 06.10.2017 may be set aside and the appellant may please be allow to perform his duty at the office of Director of Health Service (FATA) Peshawar as he has transferred/posted just after 10 days.

S.S. Dawry # 2505 dt 9¹⁰/₁₇

Date: 09/10/2017

Muhtaq Ahmad

Appellant

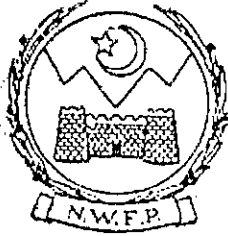
Muhtaq Ahmad, Superintendent
Office of Director Health Service
FATA Peshawar

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[Signature]

P. # 999-9060

ALLEGED



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) {
- vi) While making postings/transfer from settled areas to FATA and vice-versa, specific approval of Governor, NWFP needs to be obtained
²While 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.

¹ 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.
² Added vide Urdu circular letter No. SOR-VI(E&AD)1-4/2003, dated 21-09-2003



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- 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
 1 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:	

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

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TESTED
[Signature]

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

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

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

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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 SECREARY
GOVERNMENT OF NWFP

Endst. No. and date even.

Copy forwarded

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

ATTESTED

ATTESTED

5.

(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) 1-4/2008/Vol-VI, dated 3-6-2008}.

.....
According to the policy of the provincial Government, maximum tenure on a post is three years. Contrary to the Policy, Store Keepers, Cashiers, Accountants and other ministerial staff remains posted in their particular field for long time, which may result in misuse of this position, due to which not only public exchequer may sustain loss but general public also suffers. The Provincial Government has taken serious notice of this situation & decided that all Administrative Secretaries and DCOs may submit a certificate within one month to the effect that above mentioned officials, having completed three years on their posts, have been adjusted on posts other than those they held previously.
{Authority: Urdu circular No: SOR-VI (E&AD)/05 dated 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;

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16



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

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

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 Secretaries. 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

¹ Placement Policy has been made part of the posting/transfer policy vide Urdu circular No SOR-VI(E&AD)/1-4/06, dt 9-2-2007

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mushkalawati

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

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GOVERNMENT OF KHYBER PAKHTUNKHWA
ESTABLISHMENT DEPARTMENT

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

Government Department, Khyber Pakhtunkhwa
No. 172/2013
Dated 27-2-2013

To
[Handwritten signature]

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

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

Sir,

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

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

[Handwritten initials]
4/3

[Handwritten signature]
SML / Secy

[Handwritten signature]
SE / Sec Est

ATTESTED
[Handwritten signature]

ATTESTED

23

19

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

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

Yours faithfully,
najam
(NAJ-MJS-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)

RECEIVED

Dr. Adnan Mahmood Gul

M.B.B.S, Dip. Card. MD. Cardiology
Cardiologist

Associate Professor
L.R.H. Peshawar
Clinic: Opp. Al Khidmat Hospital
Nishtar Abad Peshawar City.

Phone: 091-2217260-2218622
Mob: 0333-9103683

بروز ہفتہ، اتوار
چھٹی ہوگی۔

F (20)
ڈاکٹر عدنان محمود گل
ایم بی بی ایس، ڈپ کارڈ

ایم ڈی - کارڈیالوجی - ماہر امراض قلب
ایسوسی ایٹ پروفیسر لیڈی ریڈنگ ہسپتال پشاور
کلینک: بالقیابل الخدمت ہسپتال نشتر آباد پشاور شہر

Name Mushkoj Sakid Age 54y Sex ♂ Date 8/4/2014

Address Khyber Teaching Hospital (HTW) D.M (Angina)

DM 2010 CAD / LBBB V

HTW LBBB
Angina recds Cor Arterio / C.p. Chest Pain.

no
aspirin
1

Aspirin 2/500
1

flekapus 75
1

sub faldic
1-e
last 1-e
1

B.P. 140/80

Follow up

BP
140 / 80 mm Hg
279 mg

T/m Tcher
Dr. Chishti Hussain
Sakid

Adad
08

ATTESTED


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مطهر کلینک

نورے گل باڑہ روڈ پشاور

Dr. Inayat ur Rehman Khalil

M.B.B.S.

F.R.C.P. (GLASGOW)

F.C.P.S. (Pak)

Tel. Clinic: 5230634 Res: 5811590

ڈاکٹر عنایت الرحمن خلیل

ایم بی بی ایس، ایف آر سی پی (گلاسگو)

ایف سی پی ایس (پاک)

کلینک: ۵۲۳۰۶۳۴ رہائش: ۵۸۱۱۵۹۰

Name

مشیر احمد

Date

1/6/12

Rx

Diabetes Mellitus

Pre-Act

Tel. Lopin 254
ایک گولڈ ٹیبلٹ

Tel. Apep 254
ایک گولڈ ٹیبلٹ

Tel. Pank
2 گولڈ ٹیبلٹ

میٹرونیڈول ۵۰۰

Adv. salt 03 mg

Inayat ur Rehman

چھٹی بروز اتوار

ATTESTED

[Signature]

Professor

Dr. Masood-ur-Rahman

M.B.B.S, M.R.C.P, D.T.M. & H
Medical Specialist / Rheumatologist

Clinic: Abdul Samad Building New Dabgari Garden
Peshawar. For Appointment 091-2210799

NOT VALID FOR MEDICO-LEGAL PURPOSE

پروفیسر 22

طیبات مسعود الرحمن

ایم۔ بی۔ ایس، ایم۔ آر۔ سی۔ پی، ڈی۔ ٹی۔ ایم اینڈ ایچ

میڈیکل سپیشلسٹ / ریوماٹولوجسٹ

کلینک: عبدالصمد بلڈنگ ڈبگری گارڈن پشاور

1

Date 28/5/2012

Mushtaq

Diabetic

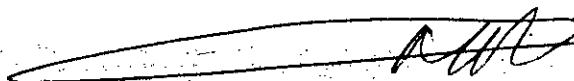
Lab. Glucocerin MK 60
دو گھنٹوں کی فاسٹنگ

Lab. Stagle-Met 50/500
ایک گھنٹہ کی فاسٹنگ

Cap. Helofol (20mg)
ایک گھنٹہ کی فاسٹنگ

Lab. CIDINE
1st

ATTESTED
CA


28/5/12

13/6/12 Status Quo

- HbA1c 9%
- RBG 246mg%
- Urine R/E Alb. nil, Sugar + + +

B.P. 135/85 mmHg

Lab. Dexamethasone (30mg)
E. 7/11/12

Lab. Prokin (30mg)
E. 7/11/12

Randoc
Blood
Glucose

Lab. Sitagliptin (50mg)
E. 7/11/12

Lab. Glucophage (850mg)
E. 7/11/12

129mg

13/6/12

SPECIALIST IN INTERNAL MEDICINE

CLINIC: 26-12-11
NAMAK MANDI PESHAWAR.
PHONE: 2212753

Mrs. Wahida Zarif
J-50

① T₂ DM - 4 months
Glibenclamide 2mg

Cardiac profile - 11/11
No 350

(100) - 110
(200) 110
① HBA/C

1. Dianicron MR 60
Dianicron MR 60

2. Glucophage 250
1 x 1

3. DUC-GAB 100
11 U.S.I

4. VOCAL 25 1 x 1 - 4.15
H.C. 65

5. VIDAYLIN-T
1 C x 2 P. 21

140/90

② 80 kg
~~Wt. 80 kg~~

② B. 100 510 mg

Dr. Wahida Zarif

ATTESTED


24

اور جب میں بیمار ہوتا ہوں تو اللہ ہی مجھے شفاء دیتا ہے (القرآن)

Dr. Muhammad Zubair Farooq



ڈاکٹر محمد زبیر فاروق

MBBS, FCPS (ortho)
Classified Orthopedic surgeon
Fuji Foundation Hospital Peshawar.
Contact No: 0321-9604417

ایم بی بی ایس، ایف سی پی ایس (آرٹھو)
کلاسفائیڈ آرٹھوپیدک سرجن
فوجی فاؤنڈیشن ہسپتال پشاور

Patient Name: Mushtaq Ahmad Age 59 yrs Sex M Date 10.10.17

Rx

Severe low back
radiating to both
lower limbs
Ass e Numbness
Known Diabetic.
Xray Lumbar
Spi AP Lat
Blood CP
LFT
RFT
Blood Glucose
level.

Sol: Depo Medrol 80mg ①
Sol: Indrop D Syng ORAL ①
Tab. Briax 20mg
10 دن
Tab. Travrel Plus
5 دن
Cap. Keegap 75mg.
10 دن
Tab. Neurobion
10 دن

ATTESTED
Adv Bed Rest for
3 days

Dr. Muhammad Zubair Farooq
MBBS, FCPS, (Ortho)
Classified Orthopaedic Surgeon
FFH,

VAKALAT NAMA

NO. _____/20

IN THE COURT OF Service Tribunal Peshawar

Mushtaq Ahmad

(Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Health Deptt (FATA)

(Respondent)
(Defendant)

I/We Mushtaq Ahmad

Do hereby appoint and constitute **M.Asif Yousafzai, 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 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 _____/20

Mushtaq Ahmad
(CLIENT)

ACCEPTED

M. ASIF YOUSAFZAI
Advocate

TAIMUR ALI KHAN
Advocate

M. ASIF YOUSAFZAI
Advocate High Court,
Peshawar.

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building,
Khyber Bazar Peshawar.
Ph.091-2211391-
0333-9103240

BEFORE THE SERVICES TRIBUNAL
KHYBER PAKHTUNKHWA, PESHAWAR

APPEAL NO. 35/2018

Mushtaq Ahmad, Superintendent (BS-17) Petitioner

Versus

Additional Chief Secretary FATA and others Respondents

S NO.	DETAIL	PAGE NO.	Description
1	Para wise Comments	1-2	
2	Affidavit	3	
3	NOC	4	A


Faiz Muhammad
Assistant Litigation,
DHS FATA Peshawar.
0301-8846252

BEFORE THE SERVICES TRIBUNAL
KHYBER PAKHTUNKHWA, PESHAWAR

APPEAL NO. 35/2018

Mushtaq Ahmad, Superintendent (BS-17) Petitioner

Versus

Additional Chief Secretary FATA and others Respondents

Para wise comments on behalf of respondent No. 1, 2 & 3

Respectfully Sheweth;

Preliminary objections

1. That the appellant has got no locus standi to file the instant appeal as NOC has already been granted to the appellant.
2. That the appellant has not come to this Honorable Court with clean hands and concealed the factual position of his service.
3. That the appellant has got no cause of action to file the instant appeal.
4. That, the appellant is not an "AGGRIEVED" person within the meaning of Article 199 of the Constitution of Pakistan.
5. The appeal is badly time barred.

ON FACTS:

1. Pertain to record.
2. Correct, to the extent of posting order of the appellant.
3. Correct.
4. Correct, the appellant was posted in AHQ Hospital Parachinar on need basis being experienced officer. However, in response to his appeal, the Director General Health Services, Khyber Pakhtunkhwa has requested to transfer / post him at settled side vide this Directorate letter at **Annex-A**.
5. The appellant has no right to file the instant appeal.

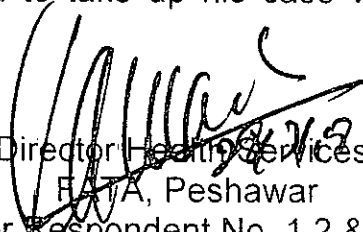
ON GROUNDS:

- A. Incorrect, the appellant has granted NOC for posting at settled side.
- B. Incorrect, the appellant was posted on need basis, however, NOC has been granted.


- C. Incorrect, as stated above.
- D. Incorrect, as stated above.
- E. Pertain to record, However, NOC has been granted for posting at settled side.
- F. Pertain to record.
- G. Incorrect as stated above.
- H. Incorrect as stated above.
- I. Incorrect, as stated above.
- J. No comments.

As the appellant has been granted NOC for posting as settled side, therefore, it is most humbly prayed that the appeal may please be dismissed and the appellant may be directed to take up his case with DGHS, Khyber Pakhtunkhwa Peshawar.

- C. Incorrect, as stated above.
- D. Incorrect, as stated above.
- E. Pertain to record
- F. Pertain to record
- G. Incorrect as stated above.
- H. Incorrect as stated above.
- I. Incorrect as stated above.
- J. No comments


 Director Health Services,
 FATA, Peshawar
 For Respondent No. 1, 2 & 3.

As the appellant has been granted NOC for posting as settled side, therefore, it is most humbly prayed that the appeal may please be dismissed and the appellant may be directed to take up his case with DGHS, Khyber Pakhtunkhwa Peshawar.


 Director Health Services,
 FATA, Peshawar

A



DIRECTORATE OF HEALTH SERVICES, FATA
WARSAK ROAD, PESHAWAR.

Phone No.: 091-9212910,

Fax: 091-9212110.

No: 380 /DHS/FATA/Admn

Dated: 05-01-2018

To

The Director General Health Services
Khyber Pakhtunkhwa, Peshawar

Subject:- **POSTING OF OFFICE SUPERINTENDENT**

It is stated that Mr. Mushtaq Ahmad Office Superintendent has recently been posted to Directorate Health Services FATA. His remaining service is less than two years to the date of superannuation.

This Directorate has no objection if the concerned official is transferred to Provincial Government of Khyber Pakhtunkhwa, Peshawar.

Director Health Services
FATA, PESHAWAR
05/01/18

Provincial Government of Khyber Pakhtunkhwa, Peshawar



DIRECTORATE OF HEALTH SERVICES FATA

FATA SECRETARIAT WARSAK ROAD PESHAWAR, Khyber Pakhtunkhwa Service Tribunal

PH # 091-9210212 FAX # 091-9212110

Diary No. 424

Dated 13/4/2018

OFFICE ORDER

In the light of directions of Service Tribunal/Khyber Pakhtunkhwa Peshawar on 30-3-2018 in appeal No.35/2018, **Mr. Mushtaq Ahmad Office Superintendent (BS-17)**, is hereby adjusted against the vacant post of Account Officer (BS-17) in Directorate of Health Services, FATA, for the purpose of withdrawal of pay w.e.f his date of arrival in the Directorate i.e 27-9-2017, till further orders.

Consequent upon above, this Directorate office order bearing endorsement No.19030-35/DHS/FATA/Admin dated 6-10-2017, regarding his posting as Office Superintendent (BS-17) in AHQ Hospital Parachinar, is hereby withdrawn.

--/--

Director Health Services,
FATA, Peshawar.

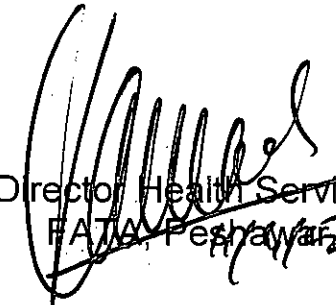
No. 8309-15 /DHS/FATA/Admin

Dated 11 /04 /2018


Copy forwarded to the:-

1. Chairman Service Tribunal Khyber Pakhtunkhwa Peshawar.
2. Medical Superintendent AHQ Hospital Parachinar.
3. AGPR Sub Office Peshawar.
4. Agency Accounts Officer Kurram Agency.
5. Litigation Assistant DHS FATA.
6. Accountant DHS FATA.
7. Officer concerned.

For information and further necessary action.


Director Health Services,
FATA, Peshawar

Put up to the court with
relevant app. no.


16/4/18



BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Khyber Pakhtunkhwa
Service Tribunal

Execution Petition No. _____/2018
In Service appeal No. 35/2018

Diary No. 156
Dated 08/02/2018

**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE ORDER
DATED 10.01.2018 OF THIS HONOURABLE
TRIBUNAL IN LETTER AND SPIRIT.**

Mushtaq Ahmad, Superintendent (PBS-17),
Director Health Services, (FATA) Peshawar.

(PETITIONER)

VERSUS

1. The Addl: Chief Secretary (FATA), FATA Secretariat, Warsak Road Peshawar.
2. The Secretary Social Sector, FATA Secretariat, Warsak Road Peshawar.
3. The Director Health Services (FATA), Peshawar.

(RESPONDENTS)

RESPECTFULLY SHEWETH:

1. That the petitioner has filed service appeal in this Honourable Tribunal against the order dated 16.10.2017, whereby the petitioner has been transferred from Director Health Service FATA to AHQ Hospital Parachinar and against not taking action on the departmental appeal of the petitioner with in the statutory period of 90 days.
2. That the appeal is in reply stage and next date fixed for reply is 08.02.2018
3. That the instant appeal was fixed for preliminary hearing on 10.01.2018 and Honourable Tribunal was kind enough to admit the case and status quo was granted in the favour of the petitioner as the petitioner has not yet relieved the charge of post. **(Copy of order sheet sated 10.01.2018 is attached as Annexure-A)**
4. That the status quo granted to the petitioner by this Honourable Tribunal but the respondents did not obey the order of the august Tribunal and not allow the petitioner to work on his post as Agency Surgeon South Waziristan Agency till yet.

5. That as the petitioner is not allow to performing duty on his post by the respondents despite the status quo granted by this Honourable Tribunal, therefore, the petitioner is constrained to file this execution petition for implementation of order dated 10.01.2018 on the following grounds amongst the others:

GROUND:

- A) That the status quo was granted in the favour of the petitioner, but respondents did not allow the petitioner to work on his post as Agency Surgeon South Waziristan Agency till yet is amount to disobedience of this Tribunal order.
- B) That being the competent Tribunal of law, the respondents are legally bound to obey the same in letter and spirit, but the respondents did not obey the order of this august Tribunal by not allowing the petitioner to work on his post after the granting of status quo in the favour of the petitioner.
- C) That the attitude and behavior of the respondents amounts to Contempt of this august Tribunal order by not allowing the petitioner to work on his post after the granting of status quo in the favour of the petitioner.
- D) That the petitioner seeks permission to advance the other ground and proof at the time of hearing.

It is, therefore, most humbly prayed that the department may be directed to implement the judgment dated 02.03.2016 of this august Tribunal in letter and spirit. Any other remedy, which this august Tribunal deems fit and appropriate that, may also be awarded in favour of petitioner.

PETITIONER

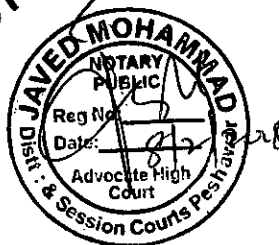
THROUGH:

M. Asif Yousafzal
M.ASIF YOUSAFZAI
ADVOCATE SUPREME COURT
& *Taimur Ali Khan*
(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

AFFIDAVIT:

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

ATTESTED



[Signature]
DEPONENT

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR



APPEAL NO. 35 /2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 29

Dated 09-01-2018

Mushtaq Ahmad, Superintendent (PBS-17),
Director Health Services (FATA) Peshawar.

(APPELLANT)

VERSUS

1. The Addl: Chief Secretary (FATA), FATA Secretariat, Warsak Road Peshawar.
2. The Secretary Social Sector, FATA Secretariat, Warsak Road Peshawar.
3. The Director Health Services (FATA), Peshawar.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 06.10.2017 WHEREBY THE APPELLANT WAS PREMATURE TRANSFERRED FROM DIRECTOR HEALTH SERVICES (FATA) TO AHQ HOSPITAL PARACHINAR PREMATURELY AND UTTER VIOLATION OF POSTING TRANSFER POLICY, AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

Filed to-day
Registrar
9/1/18

PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 06.10.2017 MAY BE SET ASIDE BEING, PASSED PREMATURELY AND VIOLATION OF POSTING/TRANSFER POLICY. THE RESPONDENT DEPTT: MAY FURTHER PLEASE BE DIRECTED NOT TO TRANSFER THE APPELLANT PREMATURELY AND IN VIOLATION OF POSTING/TRANSFER POLICY. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

Certified to

10.01.2018

Counsel for the appellant present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant is serving in Health Department as Superintendent. It was further contended that earlier the appellant was transferred from Khyber Teaching Hospital Peshawar against the vacant in the office of Director Health Services FATA vide order dated 25.09.2017. It was further contended that just after 10 days the appellant was again transferred from the office of Director Health Services FATA to the post of Office Superintendent at AHQ Hospital Parachinar vide impugned order dated 06.10.2017 without completion of his normal tenure. It was further contended that the impugned order was passed by the Director Health Service FATA while the competent authority for transfer/posting of the appellant is Secretary Health. It was further contended that the appellant is going at LPR on 21.02.2018 as inserted the appellant in para-E of the service appeal therefore, the impugned order is illegal and liable to be set-aside. It was further contended by learned counsel for the appellant that the appellant has not yet relinquish the charge.

The contentions raised by learned counsel for the appellant need consideration. The appeal is admitted for regular hearing subject to deposit of security and process fee within 10 days, thereafter notice be issued to the respondents for written reply/comments for 25.01.2018 before S.B. Notice of application for suspending the operation of order dated 06.10.2017 be also issued to the respondents for the date fixed. In the meanwhile status-quo be maintained till the date fixed.

Certified to be true copy


(Muhammad Amin Khan Kundi)
Member

VAKALAT NAMA

NO. _____/20

IN THE COURT OF Service Tribunal Peshawar

Mushtaq Ahmad (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Health Dept (FATA) (Respondent)
(Defendant)

I/We Mushtaq Ahmad

Do hereby appoint and constitute **M.Asif Yousafzai, 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 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 _____/20

Mushtaq Ahmad
(CLIENT)

ACCEPTED

M. ASIF YOUSAFZAI
Advocate

TAIMUR ALI KHAN
Advocate

M. ASIF YOUSAFZAI
Advocate High Court,
Peshawar.

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building,
Khyber Bazar Peshawar.
Ph.091-2211391-
0333-9103240

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 35 /2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 272

Dated 09-01-2018

Mushtaq Ahmad, Superintendent (PBS-17),
Director Health Services (FATA) Peshawar.

(APPELLANT)

VERSUS

1. The Addl: Chief Secretary (FATA), FATA Secretariat, Warsak Road Peshawar.
2. The Secretary Social Sector, FATA Secretariat, Warsak Road Peshawar.
3. The Director Health Services (FATA), Peshawar.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE ORDER DATED 06.10.2017 WHEREBY THE APPELLANT WAS PREMATURE TRANSFERRED FROM DIRECTOR HEALTH SERVICES (FATA) TO AHQ HOSPITAL PARACHINAR PREMATURELY AND UTTER VIOLATION OF POSTING TRANSFER POLICY, AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS.

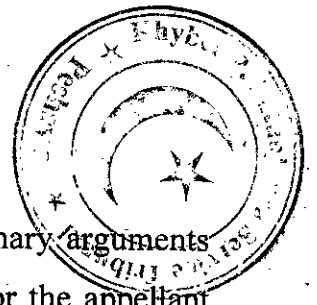
Filed to-day
Registrar
9/1/18

PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 06.10.2017 MAY BE SET ASIDE BEING, PASSED PREMATURELY AND VIOLATION OF POSTING/TRANSFER POLICY. THE RESPONDENT DEPTT: MAY FURTHER PLEASE BE DIRECTED NOT TO TRANSFER THE APPELLANT PREMATURELY AND IN VIOLATION OF POSTING/TRANSFER POLICY. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

Certified copy
K. [Signature]
Registrar

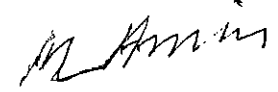
109.01.2018



Counsel for the appellant present. Preliminary arguments heard. It was contended by learned counsel for the appellant that the appellant is serving in Health Department as Superintendent. It was further contended that earlier the appellant was transferred from Khyber Teaching Hospital Peshawar against the vacant in the office of Director Health Services FATA vide order dated 25.09.2017. It was further contended that just after 10 days the appellant was again transferred from the office of Director Health Services FATA to the post of Office Superintendent at AHQ Hospital Parachinar vide impugned order dated 06.10.2017 without completion of his normal tenure. It was further contended that the impugned order was passed by the Director Health Service FATA while the competent authority for transfer/posting of the appellant is Secretary Health. It was further contended that the appellant is going at LPR on 21.02.2018 as inserted the appellant in para-E of the service appeal therefore, the impugned order is illegal and liable to be set-aside. It was further contended by learned counsel for the appellant that the appellant has not yet relinquish the charge.

The contentions raised by learned counsel for the appellant need consideration. The appeal is admitted for regular hearing subject to deposit of security and process fee within 10 days, thereafter notice be issued to the respondents for written reply/comments for 25.01.2018 before S.B. Notice of application for suspending the operation of order dated 06.10.2017 be also issued to the respondents for the date fixed. In the meanwhile status-quo be maintained till the date fixed.

Certified copy
Peshawar


(Muhammad Amin Khan Kundi)
Member

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR.

Execution Petition No. _____/2018
In Service appeal No. 35/2018

**EXECUTION PETITION FOR DIRECTING THE
RESPONDENTS TO IMPLEMENT THE ORDER
DATED 10.01.2018 OF THIS HONOURABLE
TRIBUNAL IN LETTER AND SPIRIT.**

Mushtaq Ahmad, Superintendent (PBS-17),
Director Health Services, (FATA) Peshawar.

(PETITIONER)

VERSUS

1. The Addl: Chief Secretary (FATA), FATA Secretariat, Warsak Road Peshawar.
2. The Secretary Social Sector, FATA Secretariat, Warsak Road Peshawar.
3. The Director Health Services (FATA), Peshawar.

(RESPONDENTS)

RESPECTFULLY SHEWETH:



1. That the petitioner has filed service appeal in this Honourable Tribunal against the order dated 16.10.2017, whereby the petitioner has been transferred from Director Health Service FATA to AHQ Hospital Parachinar and against not taking action on the departmental appeal of the petitioner within the statutory period of 90 days.
2. That the appeal is in reply stage and next date fixed for reply is 08.02.2018
3. That the instant appeal was fixed for preliminary hearing on 10.01.2018 and Honourable Tribunal was kind enough to admit the case and status quo was granted in the favour of the petitioner as the petitioner has not yet relieved the charge of post. **(Copy of order sheet dated 10.01.2018 is attached as Annexure-A)**
4. That the status quo granted to the petitioner by this Honourable Tribunal but the respondents did not obey the order of the august Tribunal and not allow the petitioner to work on his post as Agency Surgeon South Waziristan Agency till yet.

5. That as the petitioner is not allow to performing duty on his post by the respondents despite the status quo granted by this Honourable Tribunal, therefore, the petitioner is constrained to file this execution petition for implementation of order dated 10.01.2018 on the following grounds amongst the others:

GROUND:

- A) That the status quo was granted in the favour of the petitioner, but respondents did not allow the petitioner to work on his post as Agency Surgeon South Waziristan Agency till yet is amount to disobedience of this Tribunal order.
- B) That being the competent Tribunal of law, the respondents are legally bound to obey the same in letter and spirit, but the respondents did not obey the order of this august Tribunal by not allowing the petitioner to work on his post after the granting of status quo in the favour of the petitioner.
- C) That the attitude and behavior of the respondents amounts to Contempt of this august Tribunal order by not allowing the petitioner to work on his post after the granting of status quo in the favour of the petitioner.
- D) That the petitioner seeks permission to advance the other ground and proof at the time of hearing.

It is, therefore, most humbly prayed that the department may be directed to implement the judgment dated 02.03.2016 of this august Tribunal in letter and spirit. Any other remedy, which this august Tribunal deems fit and appropriate that, may also be awarded in favour of petitioner.

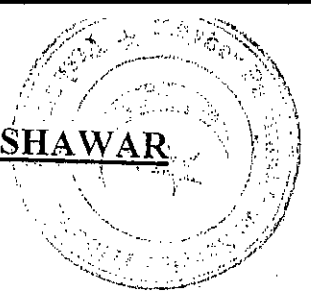
PETITIONER
THROUGH: 
M.ASIF YOUSAFZAI
ADVOCATE SUPREME COURT
& 
(TAIMUR ALI KHAN)
ADVOCATE HIGH COURT

AFFIDAVIT:

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


DEPONENT

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR



APPEAL NO. 35 /2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 27

Dated 09-01-2018

Mushtaq Ahmad, Superintendent (PBS-17),
Director Health Services (FATA) Peshawar.

(APPELLANT)

VERSUS

1. The Addl: Chief Secretary (FATA), FATA Secretariat, Warsak Road Peshawar.
2. The Secretary Social Sector, FATA Secretariat, Warsak Road Peshawar.
3. The Director Health Services (FATA), Peshawar.

(RESPONDENTS)

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Filed to-day
Registrar
9/1/18

PRAYER:

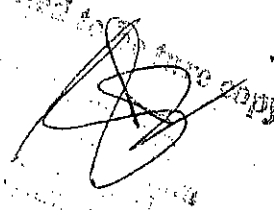
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Committed to
[Signature]

109.01.2018

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Certified copy



(Muhammad Amin Khan Kundi)
Member