

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 826/2018

Date of Institution ... 27.06.2018

Date of Decision ... 20.12.2019

Mst. Shahnaz Begum D/o Ali Akbar Khan R/o Gulmaira, P/o Lundkhawar, Tehsil Bhai, District Mardan. ... (Appellant)

VERSUS

The Secretary Population Welfare Department, Khyber Pakhtunkhwa, Warsak Road Peshawar and five others. ... (Respondents)

SYED YOUNAS JAN,
Advocate

--- For appellant.

MR. MUHAMMAD JAN,
Deputy District Attorney

--- For respondents

MR. AHMAD HASSAN
MR. MUHAMMAD HMAID MUGHAL

--- MEMBER(Executive)
--- MEMBER(Judicial)

JUDGMENT:

AHMAD HASSAN, MEMBER:- Arguments of the learned counsel for the parties heard and record perused.

ARGUMENTS:

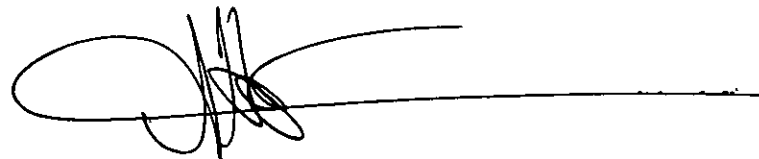
02. Learned counsel for the appellant argued that she was appointed as Female Welfare Worker vide order dated 02.04.2005 and performed duty regularly. That her services were placed at the disposal of respondent no.3 for further posting in erstwhile FATA. Upon completion of normal tenure, she made a representation for transfer from FATA to settled area but without any positive outcome. Action on the part of the respondents had no backing of law. She served in FATA for more than thirteen years and deserved to be adjusted in settled area.

03. Learned District Attorney argued that as per advertisement appointment of the appellant was made for Population Welfare Program in erstwhile FATA. She could not claim posting in settled area. Moreover, in the post merger scenario of FATA in Khyber Pakhtunkhwa, the issue pertaining to the status of the appellant was yet to be resolved by the respondents. As she is not on the strength of the Population Welfare Department, Khyber Pakhtunkhwa, therefore, her transfer in settled area is not possible.

CONCLUSION:

04. The appellant was an employee of erstwhile FATA, and through the present service appeal seeks transfer in the settled area. We have observed that departmental appeal dated 19.03.2018 filed by the appellant was not decided by the respondents within the given deadline. Even they have not provided any cogent reasons for not deciding the same. In these circumstances, it would be appropriate to remit the service appeal back to the respondents to decide her departmental appeal, through a well reasoned speaking order.

05. As a sequel to the above, the appeal is remitted to the respondents with the direction to decide the departmental appeal of the appellant through a speaking order within a period of sixty days from the date of receipt of this judgment. Parties are left to bear their own costs. File be consigned to the record room.



(AHMAD HASSAN)
Member



(MUHAMMAD HAMID MUGHAL)
Member

ANNOUNCED
20.12.2019

ORDER

20.12.2019

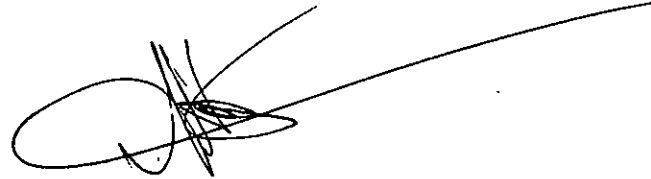
Counsel for the appellant present. Mr. Muhammad Jan, DDA
for respondents present. Arguments heard and record perused.

Vide our detailed judgment of today of this Tribunal placed
on file, the appeal is remitted to the respondents with the direction to
decide the departmental appeal of the appellant through a speaking
order within a period of sixty days from the date of receipt of this
judgment. Parties are left to bear their own cost. File be consigned to
the record room.

Announced:
20.12.2019



(Muhammad Hamid Mughal)
Member



(Ahmad Hassan)
Member

29.10.2019

Due to incomplete bench the case is adjourned. To come up for the same on 15.11.2019 before D.B.



Reader

25.11.2019

Due to general strike of the bar, the case is adjourned. To come up on 11.12.2019 before D.B.



Member

Member

11.12.2019

Lawyers are on strike on the call of Khyber Pakhtunkhwa Bar Council. Adjourn. To come up for further proceedings/arguments on 20.12.2019 before D.B.



Member




Member

10.04.2019

Counsel for the appellant AND Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Sagheer Musharraf AD for the respondents present.

Written reply submitted which is placed on record. To come up for arguments on 12.06.2019 before D.B. The appellant may submit rejoinder within a fortnight, if so advised.


Chairman

12.06.2019

Counsel for the appellant and Mr. Muhammad Riaz Khan Paindakhel, Asstt. AG for the respondents present.

Learned counsel for the appellant requests for time to submit rejoinder to the written reply of respondents. To come up for arguments on 05.08.2019 before the D.B. The appellant may submit rejoinder within one month.


Member


Chairman

05.08.2019

Learned counsel for the appellant and Mr. Muhammad Jan learned Deputy District Attorney present. Learned counsel for the appellant submitted rejoinder which is placed on file and seeks adjournment. Adjourn. To come up for arguments on 29.10.2019 before D.B.


Member


Member


25.02.2019

Counsel for the appellant present.

Contends, inter-alia, that the appellant is an unmarried female ~~is~~ and ^S_A residing with her parents in Tehsil Takh-Bhai District Mardan. Since her appointment in the year 2005 she is continuously performing her duty at Bajaur, whereas, the policy of Provincial Government in the said regard requires the posting of an unmarried female in the area of residence of her parents.

On 02.01.2019 the respondents were put on notice to furnish comments to the appeal, however, no one is in appearance on their behalf today.

In view of the above, instant appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 10.04.2019 before S.B.


Appellant Deposited
Security & Process Fee

Chairman 

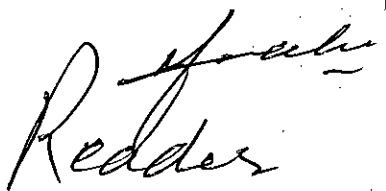
28.09.2018

Syed Younis Jan, Advocate for appellant present and heard to some extent. Let comments be sought from the respondents for 14.11.2018 before S.B.


Chairman

14-11-2018

81/11/18
Due to Retirement of Honorable Chairman the Tribunal is non functional therefore the case is adjourned to come up for the same on 2-1-2019


Redder

02.01.2019

Counsel for the appellant present. vide order sheet dated 28.09.2018 comments was sought from the respondents but no one is present on behalf of the respondents therefore, notice be issued to the respondents with the direction to direct the representative to attend the court and submit comments on the next date positively. Adjourned. To come up for comments on behalf of respondents on 25.02.2019 before S.B.


(Muhammad Amin Khan Kundi)
Member

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 826/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	27/06/2018	<p>The appeal of MST. Shahnaz Begum presented today by Syed Younas Jan Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR 27/6/18</p>
2-	20.07.2018	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>20/7/18</u>.</p> <p style="text-align: right;"><i>[Signature]</i> MEMBER</p> <p>Counsel for the appellant present and seeks adjournment. Adjourned. To come up for preliminary hearing on <u>09.08.2018</u> before S.B.</p> <p style="text-align: right;"><i>[Signature]</i> (Ahmad Hassan) Member</p>
08.08.2018		<p>Clerk to counsel for the appellant present and seeks adjournment on the ground that learned counsel for the appellant is not available today. Adjourned. To come up for preliminary hearing on <u>28.09.2018</u> before S.B.</p> <p style="text-align: right;"><i>[Signature]</i> (Muhammad Amin Kundi) Member</p>

AFTER LAPSE OF STATUTORY PERIOD NO
ORDER/COMMUNICATION WHATSOEVER HAS BEEN MADE ON
THE SAME SO FAR. (COPY OF DEPARTMENTAL
APPEAL/REPRESENTATION IS ANNEXURE A)

PRAYER IN APPEAL:

That on acceptance of this appeal, the respondents may kindly be directed to treat the Appellant in accordance with law/ rules/ policy and notifications of the Govt: regarding posting/transfer and not to discriminate her in the matter of transfer from FATA to settled area and thus the respondents (competent authority) may kindly be directed to issue the transfer order of the Appellant from FATA to settled area.

Respectfully Submitted:-

1. *That the Appellant is unmarried female residing with her parents at village Gul Mera, P/o Lund Khwar, Tehsil Takht Bhai, District Mardan. (Copy of CNIC is attached as annexure "B").*
2. *That since her appointments as family welfare worker vide order dated 02/04/2005, the Appellant is performing her*

duties in the office of Agency Population Welfare Officer Bajour Agency respondent No 6 (Copy of Appointment Order is attached as annexure "C").

3. That the respondent No 2 is the appointing authority for the entire province including FATA and after selection and appointment of the candidates for FATA, they are placed on the disposal of respondent No 3 for further postings and after completing normal tenure there and then they are transferred and posted in settled area on the approval of the respondent No 5.
4. That after completion of not only the normal tenure, but passing a considerable long period, the Appellant submitted an application/representation for her transfer from FATA to settled area and an NOC was also issued in her favour, but even then she has not been considered for her transfer as such and it is pertinent to mention here that now after merging of FATA in Khyber Pakhtunkhwa no NOC, post of availability certificates or substitute is required. (Copy of NOC is attached as annexure "D")
5. That the Appellant approached the authority time and again for her transfer from FATA to settled area, but of no use, hence this appeal on the following amongst other grounds:

Grounds:-

- A. That the act & omission of the respondents is illegal, unconstitutional, without jurisdiction, without lawful authority and of no legal effect, therefore, need the interference of this Honourable ~~Court~~ Tribunal.
- B. That the act and omission of the respondents is not only factually incorrect and legally untenable, but also is based on the malafide intention of the respondents and also is discriminatory in nature.
- C. That the respondents have not treated the Appellant in accordance with laws/rules/policies and notifications of the Provincial Government, regarding posting/transfer and thus have acted in violation of the constitution by unlawfully ignoring the transfer of the Appellant from FATA to settled area.
- D. That under Article 35 of the Constitution of Islamic Republic of Pakistan, 1973, it is the obligatory duty of the state to protect the marriage, the family, mother and child, however, the Appellant has been denied the fundamental rights, which has resulted in gross miscarriage of justice.

- E. *That the respondents are bound to follow the policy and notifications of the Provincial Government frame/circulated in the public interest to redress the grievances of the aggrieved civil servants, but they have failed to discharge the responsibilities/obligations cast upon them by the law, which is utterly illegal, unconstitutional and hence not maintainable under the law.*
- F. *That being unmarried female due to the posting of the Appellant in far flung area in FATA and her parents residing in settled area, the family life of the Appellant as well as of her parents have been quite miserable as they are compelled to reside separately due to the service of the Appellant and the Appellant as well as her parents always disturbed due to the separate living therefore not only legally and constituently, but on humanitarian grounds also the Appellant is entitled for her transfer from FATA to settled area.*
- G. *That the Appellant has served for about 13 years in FATA efficiently, honestly and without giving any chance of complaint to her superiors, which facts also go in her favour entitling him for her transfer for FATA to settled area.*

- H. *That under the various provisions of the policy of the government of Khyber Pakhtunkhwa also the appellant is entitled for her transfer to FATA to settled area.*
- I. *That except the Appellant no other female member is available at home to take care of her old aged parents and 2 disable sisters and in these circumstances, it is very difficult for the Appellant to continue her duties in such far flung area.*
- J. *That other grounds not specifically been mentioned in this petition, may also kindly be allowed at the time of arguments.*

It is, therefore, most humbly prayed that on acceptance of this appeal, the respondents may kindly be directed to treat the Appellant in accordance with law/ rules/ policy and notifications of the Govt: regarding posting/transfer and not to discriminate her in the matter of transfer from FATA to settled area and thus the respondents (competent authority) may kindly be directed to issue the transfer order of the Appellant from FATA to settled area.

— 7 —

*Any other remedy/relief available in the circumstances
of the case may also kindly be given to the Appellant.*

Dated:- 27/06/2018

Through:-

Shah naz Begum
Appellant
Syed Younas Jan
Syed Younas Jan
Advocate High Court
Peshawar.

Note:-

As per instruction of my client she had filed writ petition No. 2704-F/12 which was dismissed on the point of jurisdiction as well as on merit then the appellant filed a review petition on the acceptance of which the observations findings regarding the merit and legal aspect of the case were expunged. So for the first time this appeal before this Hon'ble tribunal. (Copy of the same orders are annexure E & F)

Syed Younas Jan
Advocate

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No:- _____ /2018

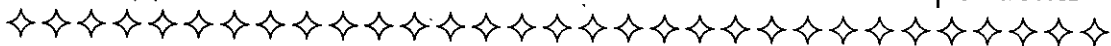
Mst: Shahnaz Begum **Versus**

The DG Population Welfare

Department & others

..... Appellant

..... Respondents



ADDRESSES OF PARTIES

APPELLANTS

Mst: Shahnaz Begum D/o Ali Akbar Khan R/o Gul Mera,
P/o Land Khawar, Tehsil Takht Bhai, District Mardan

RESPONDENTS

1. The Secretary Population Welfare Department, Khyber Pakhtunkhwa, Warsak Road, Peshawar.
2. The Director General Population Welfare Department, Khyber Pakhtunkhwa, at FC Plaza, Peshawar Cantt.
3. The Deputy Director Population Department, FATA, FATA Secretariat, Warsak Road, Peshawar.
4. The Secretary to Governor, FATA Secretariat Warsak Road, Peshawar.
5. The Chief Secretary to Govt: of Khyber Pakhtunkhwa, Civil Secretariat, Peshawar.
6. The Agency Population Welfare Official Bajour Agency.

Dated:- 27/06/2018

Appellant

Through:-

Syed Younas Jan
Advocate High Court
Peshawar.

Annex
"A"

10

To

The worthy Secretary
Population welfare department
Khyber Pakhtunkhwa Peshawar

Subject:- TRANSFER FROM FATA TO SETTLED AREA.

Respected Sir,

The applicant most humbly submits as below:

1. That I was appointed as family welfare worker in the office of APWO Bajour Agency vide order/Endst dated 02/04/2005 and since then I am working in FATA.
2. That I am an unmarried female belong to Lund Khwar District Mardan.
3. That I have completed not only my normal tenure but more than the normal tenure and the competent authority has also issued an NOC in my favour therefore due to the above facts I am fully entitled for my transfer from FATA to settled area.
4. That I am not only entitled for my transfer from FATA to settled area in light of the various provision of the posting/transfer policy, of the provisional government but on humanitarian ground also.
5. That I approached the competent authority time and again with the request of my transfer from FATA to settled area, but of no use, hence this application/representation before your honour.
6. That in light of the natural as well as legal justice also I am entitled for my transfer from FATA to Settled area, because being an unmarried female it is very difficult for me to serve faraway from my parents house.

Your good self is therefore requested sir that my transfer order from FATA to settled area may kindly be issued and I may kindly be adjusted against any post of family welfare worker in settle area.

Applicant

Shahnaz Begum

Shahnaz Begum
Family Welfare worker office of the
agency population welfare officer
Bajour Agency

Date: 19/03/2018

Attest
[Signature]

BYED MOJIBUS JAW
M.A.L.B. B.Ed. (P) (S) Ghans 280
Advocate High Court Peshawar
Federal Shariat Court.

Annex "A"

(10)

V240L5 15000-6847954-8

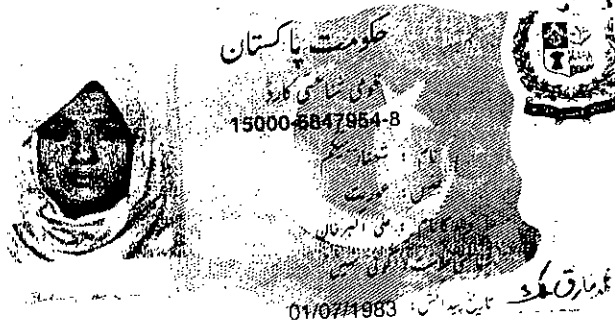
پشاور ہائی کورٹ، پشاور، پاکستان
پشاور ہائی کورٹ، پشاور، پاکستان

13288000031

تاریخ: 21/01/2023
تاریخ: 21/01/2013



(11)



Attested
[Signature]

SYED YOUNUS JAN
M.A., B.A., B.E. Advocate (Sharia Law)
Advocate High Court Peshawar
Federal Shariat Court.

GOVERNOR'S SECRETARIAT (FATA)
POPULATION WELFARE DEPARTMENT (FATA)

Legible copy of Annexure "C" at Page 12

Consequent upon their appointment, vide Office order No. GS/POP/1-1/107-13 dated 24/03/2005 the competent authority has been placed to order the posting of the following family welfare worker (BPS-9) to the office noted against each with immediate effect in the Public interest:

S.No.	Name	Father's /husbands name	Place of posting
1)	Robina	Amir Rehman	Office of the APWO NWA
2)	Gul Naz	Gul Zamir	Office of the APWO Mohmand
3)	Hashmat Siddiquei	Shakoor Muhammad	-do-
4)	Irfana Anwar	Syed Anwar	-do-
5)	Tahira Bibi	Ali Khan	-do-
6)	Shazia Ghafoor	Ghafoor Khan	-do-
7)	Naheed Akhtar	Malik Ghulam	Office of the APWO Kurram
8)	Shaista Perveen	Gul Hayat Gul	Office of the APWO Khyber
9)	Fozia Begum	Ghulam Qadar	Office of the APWO Kurram
10)	Samina Tabassum	Emandar	Office of the APWO NWR
11)	Ulfat Begum	Wazir Muhammad	Office of the APWO Khyber
12)	Nazia Begum	Khsil Gul	Office of the APWO Kurram
13)	Shahnaz Begum	Ali Akbar Khan	Office of the APWO Bajaur
14)	Shahana Hakim	Abdul Hakim	Office of the APWO Khyber
15)	Samail Begum	Muhammad Anwar	-do-
16)	Khyal Bibi	Abdul Malik	Office of the APWO NWA
17)	Farzana Saif	Saif Ullah	Office of the APWO Bajaur
18)	Zahida Bibi	Qayyum Jan	-do-
19)	Farida Salim	Salim Batti	Office of the APWO Khyber

Deputy Director (Population)

No. GS/F/1-1/POP/514-550
Dated 02/04/2005

Copy to:

- 1) Deputy Secretary (Admin)
- 2) Deputy Secretary (Finance)
- 3) Additional accountant General (I-R) Sub Office Peshawar.
- 4) Agency Accounts Officer Bajaur, Mohmand, Khyber, Kurram and NW Agency
- 5) Agency Population Welfare Officer Bajaur, Mohmand, Khyber, Kurram and NW Agency
- 6) Official concerned

Sd/-
Deputy Director (Population)

SYED
D.A.L.L.B. & Co. Chartered Accountants
Advocate High Court Peshawar
Federal Shariat Court.

OFFICE ORDER

Consequent upon their appointment vide office order No. GS/Pop/W/1/407-13 dated 24-03-2005, the Competent Authority has been pleased to order the posting of the following Family Welfare Worker (BPS-9) to the offices noted against each with immediate effect in the public interest:-

S.No	Name	Father's/Husband Name	Place of Posting
1	Robina	Amir Rehman	Office of the APWO NWA
2	Gul Naz	Gul Zamir	Office of the APWO Mohmand
3	Hachmat Sidiqi	Shakoor Muhammad	Office of the APWO Mohmand
4	Hafsa Anwar	Syed Anwar	Office of the APWO Mohmand
5	Tahira Bibi	Ali Khan	Office of the APWO Kurram
6	Shahin Ghalfoor	Ghalfoor Gul	Office of the APWO Khyber
7	Nabeed Akhtar	Malik Ghulam Rabani	Office of the APWO Kurram
8	Shaiista Perveen	Gul Hayat Gul	Office of the APWO Khyber
9	Fozia Begum	Ghulam Qadir	Office of the APWO Bajaur
10	Samina Tabassam	Emandar	Office of the APWO NWA
11	Uzma Begum	Wazir Muhammad	Office of the APWO Khyber
12	Sadia Begum	Khalid Gul	Office of the APWO Kurram
13	Shahnoor Begum	Ali Akbar Khan	Office of the APWO Bajaur
14	Shahana Hakim	Abdul Hakim	Office of the APWO Khyber
15	Samait Begum	Muhammad Azam	Office of the APWO Khyber
16	Khayal Bibi	Abdul Malik	Office of the APWO NWA
17	Farzana Saif	Saifullah	Office of the APWO Bajaur
18	Zahida Bibi	Qayyum Jan	Office of the APWO Bajaur
19	Farida Saif		Office of the APWO Khyber

Deputy Director (Population)

CGST 1-1 Form 579-50
Dated 24/03/2005
Copy to

1. Deputy Secretary (Admin)
2. Deputy Secretary (Finance)
3. Additional Assistant Secretary (PI) Sub Office Peshawar
4. Agency Account Officers Bajaur, Mohmand, Khyber, Kurram and NW Agencies
5. Family Welfare Officers Bajaur, Mohmand, Khyber, Kurram and NW

Attested
[Signature]

SYED
M.A.L.B. P.E.S.
Advocate High Court Peshawar
Federal Shariat Court.

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Handwritten signature or text at the bottom right, including the name 'A. J. ...' and other illegible characters.

Annex "D" (13)

POPULATION WELFARE DIRECTORATE
FATA SECRETARIAT
WARSAK ROAD, PESHAWAR
Ph # 091-9239315 & 091-9212711
Fax # 091-9212711

F.No 1(1)/2008-09/Pop/ 5892 -95

11
Date 10/04/2009

To

The Secretary
Population Welfare Department
NWFP (Peshawar)

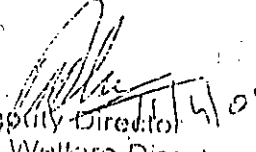
Subject: TRANSFER FROM FATA TO SETTLE AREA.

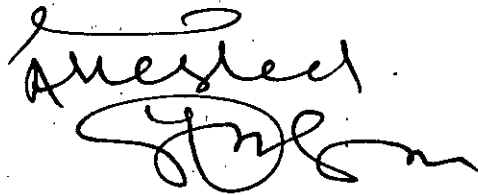
I am directed to enclosed herewith a copy of application in respect of Miss. Shehnaz Begum D/O Ali Akbar Family Welfare Worker (BPS-09) Agency Population Welfare Office Bajaur Agency requesting for transfer from Population Welfare Department, FATA to Population Welfare Department, NWFP (Settled area) District Mardan.

This office has no objection subject to the condition of provision of substitute, who will report first in FATA.

Muhammad Aleem
Deputy Director
Population Welfare Directorate
FATA

- C.C.
- Agency Population Welfare Officer Bajaur Agency for information.
 - Official concerned for information.
 - P/File of the official for record.


Deputy Director
Population Welfare Directorate
FATA



SYED YOUSUF JAN
B.A., B.L.B., B Ed. Islamic Sharia Law
Advocate High Court Peshawar
Federal Shariat Court.

⑬ 13

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PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET

Court of.....

Case No.....of.....

Date of Order of Proceedings	Order of other Proceedings with Signature of Judge.
1	2
18.12.2013	<p><u>Review Petition No. 109-P/2013 in W.P.No. 2704-P/2012.</u></p> <p>Present: Ali Akbar, father of the petitioner. ***</p> <p><u>DOST MUHAMMAD KHAN, C.J.</u>- The petitioner is aggrieved from the order of this Court dated 26.09.2013 to the extent that after holding that it has no jurisdiction then merits of the case and legal aspects of the matter should not have been discussed.</p> <p>2. Notice of this petition is given and taken by Mian Arshad Jan, AAG, present in Court in some other case, who concedes to the legal position, therefore, this review petition is allowed and the observations / findings recorded in the order dated 26.09.2013 with regard to the merits of the case and legal aspects of the matter are hereby expunged.</p> <p><i>sd/- Dost Muhammad Khan - J</i> <i>sd/- Misat Hussain Khan - J</i></p>

9478

No.

Date of Presentation of Application 26.12.13

No of Pages 6P

Copying fee

Urgent Fee

Total 12.00

Date of Preparation of Copy 04-01-14

Date Given For Delivery 06-01-14

Date of Delivery of Copy 04-01-14

CERTIFIED TO BE TRUE COPY

Examiner
Peshawar High Court Peshawar
Authorised Under Article 87 of
The Qanun-e-Shahadat Order 1984

04-01-14

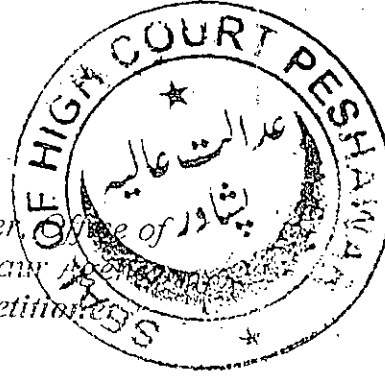
13-3
2014

15

15

IN THE PESHAWAR HIGH COURT, PESHAWAR.

Writ Petition No. 9704 of 2012



Mst: Shehnaz Begum Family Welfare Worker, Office of
the Agency Population Welfare Officer, Bajaur Agency
..... Petitioner

VERSUS

- 1) The Director General, Population Welfare Department,
Khyber Pakhtunkhwa Peshawar.
- 2) Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 3) Secretary Population Welfare Deptt: Govt of Khyber
Pakhtunkhwa Peshawar.
- 4) The Secretary to Governor FATA Secretariat Warsak
Road, Peshawar.
- 5) Director Population Welfare Directorate, FATA
Secretariat Warsak Road, Peshawar.
- 6) Agency Population Welfare Officer, Bajaur Agency.
..... Respondents

WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF
PAKISTAN 1973 TO THE EFFECT THAT THE
RESPONDENTS MAY KINDLY BE DIRECTED
TO TREAT THE PETITIONER IN
ACCORDANCE WITH LAW/RULES/POLICIES
REGARDING POSTINGS/TRANSFER AND NOT
TO DISCRIMINATE HIM IN THE MATTER.
THE RESPONDENTS MAY FURTHER KINDLY
BE DIRECTED TO ISSUE THE TRANSFER
ORDER OF THE PETITIONER FROM FATA TO
SETTLE AREA ACCORDING TO LAW/RULES
AND POLICIES OF THE GOVERNMENT.

Respectfully Sheweth:

The petitioner submit as under:

ATTESTED

EXAMINER
Peshawar High Court

04-06-14

Review Petition No. 117 of 2013

In:

Writ Petition No. 2704 of 2012

Mst. Shehnaz Begum Family Welfare Worker, Office of
the Agency Population Welfare Officer, Bajaur
Agency.

..... Petitioner

VERSUS

- 1) The Director General, Population Welfare Department,
Khyber Pakhtukhwa Peshawar.
- 2) Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 3) Secretary Population Welfare Deptt: Govt of Khyber
Pakhtunkhwa Peshawar.
- 4) The Secretary to Governor FATA Secretariat Warsak
Road, Peshawar.
- 5) Director Population Welfare Directorate, FATA
Secretariat Warsak Road, Peshawar.
- 6) Agency Population Welfare Officer, Bajaur Agency.

..... Respondents

PETITION FOR REVIEW / CORRECTION OF
ORDER DATED 26/09/2013 PASSED BY THE
HON'BLE DIVISION BENCH OF THIS
HON'BLE COURT IN WRIT PETITION NO. 2704
OF 2012 (ATTESTED COPY OF THE SAID IS
ATTACHED)

ATTESTED

EXAMINER
Peshawar High Court

Annex "F"

17

IN THE PESHAWAR HIGH COURT, PESHAWAR.

Writ Petition No. 2704 of 2012



Mst: Shehnaz Begum Family Welfare Worker, Office of
the Agency Population Welfare Officer, Bajaur Agency.
..... Petitioner

VERSUS

- 1) The Director General, Population Welfare Department,
Khyber Pakhtukhwa Peshawar.
- 2) Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
- 3) Secretary Population Welfare Deptt: Govt of Khyber
Pakhtunkhwa Peshawar.
- 4) The Secretary to Governor FATA Secretariat Warsak
Road, Peshawar.
- 5) Director Population Welfare Directorate, FATA
Secretariat Warsak Road, Peshawar.
- 6) Agency Population Welfare Officer, Bajaur Agency.
..... Respondents

17
29/3/13

WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF
PAKISTAN 1973 TO THE EFFECT THAT THE
RESPONDENTS MAY KINDLY BE DIRECTED
TO TREAT THE PETITIONER IN
ACCORDANCE WITH LAW/RULES/POLICIES
REGARDING POSTINGS /TRANSFER AND NOT
TO DISCRIMINATE HIM IN THE MATTER.
THE RESPONDENTS MAY FURTHER KINDLY
BE DIRECTED TO ISSUE THE TRANSFER
ORDER OF THE PETITIONER FROM FATA TO
SETTLE AREA ACCORDING TO LAW/RULES
AND POLICIES OF THE GOVERNMENT.

Respectfully Sheweth:

The petitioner submit as under:

ATTESTED
EXAMINER
Peshawar High Court

27 APR 2018

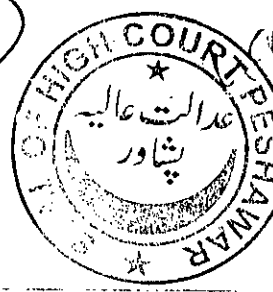
FILED TODAY
Deputy Registrar

19 APR 2012

- 2 -

FORM "A"
FORM OF ORDER SHEET

18



Court of -----

Case No.-----

Date of order or proceedings 2.	Order or other proceedings with signature of Judge or Magistrate and that of parties or counsel where necessary. 3.
26.09.2013	<p><u>WP No.2704-P/2012.</u></p> <p><u>Present:</u> Syed Younus Jan, Advocate, for the petitioner.</p> <p>*****</p> <p><u>NISAR HUSSAIN KHAN, J.-</u> Petitioner through the instant petition seeks issuance of an appropriate writ directing the respondents to transfer him from FATA to settled area according to Law, Rules and Policy of the Government on the subject.</p> <p>2. We have gone through the record carefully and have also considered the submissions made by the learned counsel for the petitioner.</p> <p>3. Undeniably, petitioner is a civil servant, performing his duties as Family Welfare Worker in the Agency Population Welfare Officer, Bajaur Agency. Admittedly, the transfer and posting is a matter pertaining to the terms and conditions of service which only falls within the domain of Service</p>

[Handwritten signature]

ATTESTED
EXAMINER
Peshawar High Court

27 APR 2018

Tribunal attracting Constitutional bar under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973 against entertainment of petition in such like matters falling within the exclusive jurisdiction of the Service Tribunal. It has been consistent practice of this Court by following the dictum of Honourable Supreme Court in the cases reported as 1997 S C M R – 169 (Ayaz Anjum Vs Government of Punjab, Housing and Physical Planning Department through Secretary and others), 1997 S C M R – 170 (Rafique Ahmad Chaudhry Vs Ahmad Nawaz Malik and others) and 1997 S C M R – 171 (Rashid Ahmad Vs Mst.Jiwan and 5 others), not to entertain such like petitions.

4. Beside that it is case of the petitioner that she was appointed as Family Welfare Worker and posted at the office of the Agency Population Welfare Department vide order/endorsement dated 2.4.2005, where she took over the charge on 6.4.2005. It was contended on behalf of the petitioner that as per Clause-6 of Posting/Transfer Policy of the Provincial Government from settled area to FATA and vice versa, approval of the Government of KPK is required to be obtained, which requirement she has complied. The respondents in their comments have submitted

ATTESTED
 EXAMINER
 Peshawar High Court

27 APR 2016

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that petitioner is not Provincial Civil Servant as she was not recruited by the Provincial Government of KPK, whereas, Female Welfare workers in the Population Welfare Department are serving in BPS-8 while according to appointment of petitioner, she is in BPS-9, so in terms of Rules of the service, she cannot be accommodated in the Provincial Service in BPS-9. In that respect in Estacode KPK Revised Edition 2011 Vol-5(IX) provided that person appointed in Agency Cadre, if appointed in the settled area will resign from service in FATA and resume service in settled area as fresh candidate. In view of this anomalous situation too, prayer of the petitioner cannot be allowed.

5. For what has been discussed above, this petition being devoid of merit is dismissed in limine.

Announced.
Dated: 26.09.2013.

M Niswan Haddadin
M Malik Hanjoo
Haddadin

JUDGE

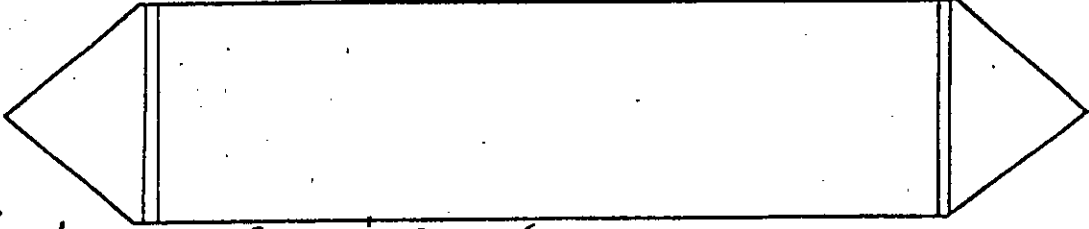
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 Date of Presentation.....
 No of Pages.....
 Copying Fee.....
 Urgent Fee.....
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 Date of Presentation.....
 Date of.....
 Recd.....

CERTIFIED TO BE TRUE COPY
 Peshawar High Court
 Authorised by the Court
 27 APR 2018

بعدالت حیدر خٹو خواہشوں کے لیے سہولتیں



27 جون 2018ء پنجاب ایبلڈ منسٹر

مقام: سہیل سہیل سہیل
نام: DG پارٹیشن وٹو
۱۲۶ وٹو
ریسائڈنٹ

موزعہ
مقدمہ
دعویٰ: Service Appeal No
جرم: Year 2018

باعث تحریر آنکھ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ
آن مقام سہیل سہیل سہیل کیلئے سہیل سہیل سہیل کی طرف سے
مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر حالت فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور صولی چیک دروپہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برابری اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ
پرداختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائے التوائے مقدمہ کے سبب سے ہوگا۔
کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی
مذکور کریں۔ لہذا ادکالت نامہ لکھ دیا کہ سندر ہے۔

المرقوم 27 جون 2018

واہ الع

بمقام حیدر خٹو خواہشوں کے لیے سہولتیں کے لئے منظور ہے
Requested & Accepted

SYED YUNUS JAN
B.A., B.L.S., B.Ed., Certificate Charis Law
Advocate High Court Peshawar
Federal Shariat Court.

Shahid Beg
سہیل سہیل سہیل

(15)

کتابخانه ملی افغانستان

Service Address
for 5018

810
نومبر ۲۰۰۸
کتابخانه ملی افغانستان

کتابخانه ملی افغانستان
نومبر ۲۰۰۸

کتابخانه

کتابخانه ملی افغانستان

کتابخانه ملی افغانستان

کتابخانه ملی افغانستان

۲۰

۱۸ نومبر

کتابخانه ملی افغانستان

Dr. A. A. ...
کتابخانه ملی افغانستان

کتابخانه ملی افغانستان

Posting and Transfer

Statutory Provision.

Section 10 of the NWFP Civil Servants Act, 1973.

Posting and Transfer. Every civil servant shall be liable to serve anywhere within or outside the Province, in any post under the Federal Government, or any Provincial Government or Local authority, or a Corporation or body set up or established by any such Government:-

Provided that nothing contained in this section shall apply to a civil servant recruited specifically to serve in a particular area or region;

Provided further that, where a civil servant is required to serve in a post outside a service or cadre, his terms and conditions of service as to his pay shall not be less favourable than those to which he would have been entitled if he had not been so required to serve.

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) Existing tenure of posting/transfer of three (03) years for settled areas and two (02) years for unattractive/hard areas shall be reduced to two (02) years for settled areas, 01½ years for unattractive areas and one year for hard areas.
- v) " |]

Para-iv) 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.

- vi) ⁸⁰While making posting/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. Save Tehsildars/Naib Tehsildars within a division in respect of whom the concerned Commissioner will exercise the same power. Whereas, in case of posting/transfer of officers in BS-18 and above, from settled areas to FATA and vice versa, specific approval of the Governor, NWFP shall be obtained.

Provided that the power to transfer Political Tehsildars and Political Naib Tehsildars within FATA between different divisions shall rest in Additional Chief Secretary FATA.

- vi (a) All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for at least eighteen months in each grade. This should start from senior most scales/grades downwards in each scale/grade of each cadre.
- vii) Officers may be posted on executive/administrative posts in the Districts of their domicile except District Coordination Officers (D.C.Os) and DPOs/Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where the Police Station (Thaana) of his area/residence is situated.
- viii) No posting/transfers of the officers/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

⁸⁰ Para-VI added vide circular letter No. SOR-VI/E&AD/1-4/2010/Vol-VIII dated 20th March, 2010.

DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales;

- xii) In terms of Rule 17(1) and (2) read with Schedule-III of the NWFP Government Rules of Business 1985, transfer of officers shown in column 1 of the following table shall be made by the authorities shown against each officer in column 2 thereof:

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

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

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

⁵² Added vide Urdu circular letter No: SOR-VI (E&AD)/1-4/2005, dated 9-9-2005.

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

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

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

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

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

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

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

5. 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).

PLACEMENT POLICY.

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

- i) All placements would be made on the basis of merit and keeping in view the needs of the organization.
- ii) The first priority in placement must go 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 officers, will be of immense value to bring about a qualitative change in the training institutions. The following proposals are made in this regard:
 - a) Permanent posting of an officer to the training institutions for 2-3 years;
 - b) Temporary attachment with the training intuitions for 3 to 6 months for some research project on helping in developing case studies;
 - c) Earmarked as a visiting faculty member for specific subject.
- v) Individuals posted to their parent organizations will also organize training for their subordinates within the department, in order to transfer the knowledge and bring about a qualitative change internally;
- vi) The Normal tenure of posting as already provided in the policy would be ensured;
- vii) No participant should be allowed to be posted on deputation to multinational donor agencies for at least 5 years;
- viii) No participants will decline/represent against his/her posting.

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 Peshavar, _____

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**

- Endst. No. and date even.
Copy forwarded
- 1.
 - 2.
 - 3.
 - 4.

(NAME)
SECTION OFFICER
Administrative Department

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

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

In Service Appeal No.826/2018.

Mst Shahnaz begum (Appellant)

VS

Secretary Population Welfare Department, Peshawar and others.....
(Respondents)

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Deponent

Sagheer Musharraf
Assistant Director (Lit)

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BEFOR THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

APPEAL NO: 826/2018

Mst. Shehnaz Begum.....Appellant/Petitioner

Versus

The Secretary Population Welfare Department Government of Khyber Pakhtunkhwa,
Peshawar & others.....Respondents

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 01-06

Respectfully Sheweth:

Preliminary objections:

1. The appellant is a Project Employee of Population Welfare Program in FATA funded through Public Sector Development Program; therefore, the court lacks the jurisdiction to entertain the instant appeal.
2. The appeal is not maintainable in its present form.
3. That the appellant has no cause of action.
4. The instant appeal is barred by law.

FACTS:

1. Incorrect: As per record the Appellant is the resident of Upper Dir (Copy of Domicile Certificate is attached as **Annexure "I"**)
2. Correct.
3. Incorrect. The appointing authority of the Appellant is the respondent No.3 and not the respondent No.2. After Selection and appointment the Appellant was placed at the disposal of respondent No. 6 for further posting. (Copy of Appointment Order of the Appellant is attached as **Annexure "II"** and Advertisement of the post as **Annexure "III"**).
4. Correct to the extent that the Appellant has completed her normal tenure of service at FATA but she was appointed for FATA and not for settled area, even then she was issued NOC by the Department, subject to the condition of provision of substitute, who will report first in FATA as per rules. (Copy of relevant rules is attached as **Annexure "IV"**). However, in the post-merger scenario, the applicant status is not yet finalized and she is not on the staff strength of Population Welfare Department Khyber Pakhtunkhwa. Once taken on the staff strength of Population Welfare Department Khyber Pakhtunkhwa and her status become clear only then her case of transfer can be considered as per transfer/ posting policy.
5. Correct to the extent that the Appellant has approached the authority for Transfer from FATA to settled area, but as she is employee of Population Welfare Program Tribal Districts (ex-FATA) and is not on the staff strength of Population Welfare Department Khyber Pakhtunkhwa therefore, she cannot be transferred to settle area.

52 3
GROUNDS:

- A. Incorrect: Nothing illegal, unconstitutional and without lawful authority has been done to the Appellant.
- B. Nothing discriminatory and based upon mollified intention is done to the Appellant.
- C. The Appellant is treated in accordance with law/rules/policies and notification of provincial Government, regarding posting/Transfer and no violation of the constitution is done.
- D. No violation of the Article 35 of the Constitution of the Islamic Republic of Pakistan, 1973 is done.
- E. Policy and notifications of the Provincial Government to redress the grievances of the civil servants are fully adhered with and no violation is made in this respect.
- F. Subject to proof, however, detail reply has been given above.
- G. Transfer & posting is not a vested right.
- H. The Appellant being employee of Population Welfare Program Tribal Districts (ex-FATA) and not on the staff strength of Population Welfare Department KPK therefore, she cannot be transfer to Population Welfare Department Khyber Pakhtunkhwa.
- I. Being a Civil Servant she is to serve anywhere she is posted.
- J. No comments.

It is therefore most humbly submitted/Prayed that, the Appellant is treated in accordance with law/rules/policy and notifications of the Government, and no discrimination is made to her regarding posting/transfer from FATA to settled area, therefore the Appeal of the Appellant may kindly be dismissed with cost.

Respondent No: 0

District Population Welfare Officer
Tribal District Bajaur

Respondent No: 2

Director General
Population Welfare Department
Khyber Pakhtunkhwa, Peshawar.

Respondent No: 3

Deputy Director
Population Welfare Directorate
Tribal Districts

Respondent No: 1 22/02/19

Secretary
Population Welfare Department
Khyber Pakhtunkhwa,
Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

In Service Appeal No.826/2018.

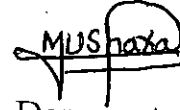
Mst Shahnaz begum (Appellant)

VS

Secretary Population Welfare Department, Peshawar and others.....
(Respondents)

Affidavit

I Mr. Sagheer Musharraf, Assistant Director (Litigation), Directorate General of Population Welfare Department do solemnly affirm and declare on oath that the contents of para-wise comments/reply are true and correct to the best of my knowledge and available record and nothing has been concealed from this Honorable Tribunal.



Deponent

Sagheer Musharraf
Assistant Director (Lit)
CNIC.17301-1642774-9

No. 2824

Dated Dir the 5/9/2000



DOMICILE CERTIFICATE

I declare that I am born of parents who are permanently domiciled in N.W.F.F. having been born in this province.

I was born at Village Dir Tehsil Dir

Distt: Upper Dir Date of birth 1-7-1983 Sig. Shahnaz Begum

Pursuance to the declaration date 5-9-2000

Filled by Shahnaz Begum D/o Son of Ali Akbar

Village Dir Tehsil Dir Distt. Upper Dir

Section Afghan Sub Section Afghan domicile in N.W.F.P.

It is hereby certified that the said Shahnaz Begum

Parents permanently domiciled in N.W.F.P.

I have satisfied myself from the verification of Tehsildar Dir

that the above declaration is true and certify accordingly

Give under my hand and the seal of the court.

THIS 5th DAY OF September 2000

COUNTERSIGNED

Deputy Commissioner (Dir) &
DEPUTY COMMISSIONER
Dir. D.D.



~~Magistrate Class~~
5/9/2000

تصدیق کی جاتی ہے کہ سسی شہیناز بیگم ولد علی اکبر
 پرائمری سکول ۱۰۷-۹۳-۰۰۱۱۱۱ میں زیر تعلیم رہ چکا ہے جن کا داخلہ نمبر 7.5.7
 تاریخ پیدائش 3-7-1977 ہے
 دستخط سید ماسٹر

Head Teacher
 G.P.S Jamal Abad.
 (Lund Khwar) T. Bhal,

تصدیق کی جاتی ہے کہ سسی شہیناز بیگم ولد دھتر علی لاکر
 نوبت دیہ تحصیل دیہ لالا ضلع دیہ لالا کا اصل پیدائشی
 قدیمی و مستقل باشندہ ہے صاحب جائیداد ہے اور قوم کے نفع و نقصان میں برابر کا شریک ہے
 سسی شہیناز بیگم ولد دھتر علی لاکر نوبت دیہ
 تحصیل دیہ لالا ضلع دیہ لالا کے قوم اچان کے ذیلی شاخ اچان
 سے تعلق رکھتا ہے نامزدہ نے قبل ازیں ضلع ہذا یا کسی اور جگہ سے ڈومیسائل حاصل نہیں
 کیا ہے لہذا ان کو ہماری ذاتی ذمہ داری پر ڈومیسائل سرٹیفکیٹ جاری کیا جائے۔

دستخط سید ماسٹر

دستخط سید ماسٹر

مختار علی لاکر
 سٹیٹ لاکر سوسائٹی
 سٹیٹ لاکر سوسائٹی
 سٹیٹ لاکر سوسائٹی

Assistant SDEO/PT/IR
 ایمر ذودہ -
 (نیشنل بک ڈپوڈیر)

As witness at and
 Mst. Sabir Begum s/o. Ali Akbar
 S/o. Hafizullah Khan
 Village Panakot. Her Jan
 107-93-001111

5510

GOVERNOR'S SECRETARIAT (FATA)
POPULATION WELFARE DEPARTMENT (FATA)

OFFICE ORDER

On the recommendations of Selection/Promotion Committee, the competent authority has been pleased to appoint the following candidates as Family Welfare Worker in (BPS-9) with admissible allowances on contract basis, as prescribed in the following term & conditions:-

S.NO	NAME	FATHER'S NAME	PRESENT HOME ADDRESS
1	Robina	Anis Rehman	Village Fateh Sagar Banda Tehsil District Mardan
2	Gul Naz	Gul Zahir	Village Bala Garhi Tehsil & District Mardan
3	Hashmat Siddiqi	Shakoor Muhammad	11/64, Street No. 2, Itihad Colony P Karwan Road Mardan.
4	Farhana Anwar	Syed Anwar	Village Matta Chapakhal Mohala Shahjahanpur Tehsil Charsadda
5	Lahina Bibi	Ali Khan	Village Zeron Yusaf Khel, Bangash Kurram Agency
6	Shazia Ghafoor	Ghafoor Gul	Village & Mohala Bazargi Tehsil Lahore District Swabi
7	Nabeed Akhtar	Malik Ghulam Rahani	Village Budhan Tehsil & District Peshawar
8	Sanaista Perveen	Gul Hayat Gul	Village New Chah Zaida District Swabi
9	Roza Begum	Ghulam Qadar	Village Bakran Area Koper, Afghan Mashwani Malakand Agency
10	Samina Tabassum	Fazandar	Village Pir Khaki Shah Paniala Tehsil D.I. Khan
11	Ulfat Begum	Wazir Muhammad	11/64, Street No. 2, Itihad Colony P Karwan Road Mardan.
12	Nazia Begum	Khan Gul	R/O Bahawal Naps Tehsil & District Kohat
13	Shamnaz Begum	Ali Akbar Khan	Village Tehsil & District Upper Dir Section Afghan.
14	Shahana Hakim	Abdul Hakim	Village Masma Mohala Masma Tehsil & District Peshawar.
15	Samait Begum	Muhammad Azam	Village Muhammadzai Tehsil & District Charsadda
16	Khayal Bibi	Abdul Malik	Village Paniala/Pir Khaki Shah Tehsil & District D.I. Khan.
17	Farzana Sult	Saitullah	Village Alatabad Tehsil Tangi District Charsadda

TERM AND CONDITIONS OF EMPLOYMENT ON CONTRACT BASIS.

1. BPS-9 Pay (2410-145-6760)
2. Period of contract will be 2 years. The contract will automatically be terminated on expiry of the stipulated period however it can be extended only through a fresh order in writing by a competent authority prior to the expiry of contract period.
3. Annual Increment will be admissible after completion of one year of service.

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5. House Rent allowance (As per Government Rules).
6. Leave, TA/DA and medical allowance (as per Government Rules)
7. Notice period for termination of contract - Two months notice or two months salary in lieu thereof
8. Benevolent Fund: Same facilities as admissible to government Servants.
9. Contributory Provident Fund: 5% of minimum of pay by the employees and 5% of contribution by the Government
10. The employees appointed on contract will not contribute to G.P.F and shall not be entitled to Pension and Gratuity benefits.
11. Subsequent to appointment, the employee will remain on probation for a period of 6 months and if they do not come up to the required standard and skill or fail to fulfil the requirement of the post, they will be straightaway terminated from service.

If you agree to the above terms & condition, you should report for duty and sign the agreement as well as produce medical fitness certificate from the authorized Medical Officer within 10 days of the issuance of this order. In case of non joining the duty by any appointee within the stipulated period, his appointment order will stand cancelled, automatically.

*Approved
AD PLWD
FACA*

Nayab Ahmad
Deputy Director (Population)

No. GS/E/100-19/Pop/ 407-13
Dated 24/3/2005
Copy to

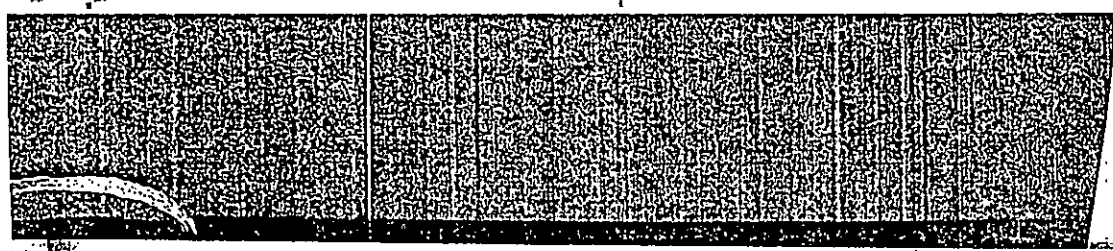
1. Deputy Secretary (Finance)
2. Deputy Secretary (Admin)
3. Additional Accountant General (PR) Sub Office Peshawar
4. All Agency Accounts Officers
5. All Agency Population Welfare Officers
6. PS to Secretary to Governor
7. Officer concerned.

Nayab Ahmad
Deputy Director (Population)

o/c

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ESTA CODE [Establishment Code Khyber Pakhtunkhwa]

99

Transfer of officers during training with the Public Administration/Training Institutes in Pakistan.

Sl.No.3

Instances have come to the notice of Provincial Government wherein officers were transferred while they were still under training with the National Institute of Public Administration, PARD etc. This is against the policy of the Provincial Government according to which an officer who is sent for training is not to be transferred from his post. In order to maintain sanctity of this policy, maintain institutional standards at fairly desirable levels and enable the officers to fully concentrate on their training, it is desirable that the trainees are not disturbed.

2. The aforesaid policy of the Government may kindly be strictly adhered to and that in future no officer under training at the PASC/NIPA/Academy for Rural Development, Shariah Academy, etc. should be transferred from his post till completion of the training period. However, in case, the nominating authority of an officer feels that it has become absolutely essential to fill up the vacancy caused by the officer's participation in a training programme, such transfers should be effected only with the prior concurrence of the Services and General Administration Department.

(Authority: S&GAD's letter No. SOS/II(S&GAD)7-39/86, dated 1.1.1987)

Transfer/Postings from settled to FATA including F.Rs to Districts.

Sl.No.4

Necessary instructions have been issued time and again to the effect that no postings and transfers to and from FATA, including F.Rs, shall be made unless approval from the Agent to the President i.e. (Governor, NWFP) is obtained. In this connection, a Circular letter was issued by the Governor's Secretariat, NWFP addressed to all the Administrative Departments vide No. SO(P)GS/16(2)1/96/365-84, dated 12.2.1996 with the direction that all cases for grant of NOC for transfer from FATA to settled Areas may be submitted to the Governor's Secretariat only by the Department concerned and not by the individual officials.

2. It has been observed that the above instructions are not being followed accordingly. Under the circumstances, it is once again re-iterated that the above instructions may kindly be adhered to strictly.

3. It is, however, clarified that when an employee completes his prescribed tenure of posting in FATA/F.Rs, the requisite NOC in such cases, shall not be required. The competent authority may dispose of such cases subject to observance of all other code of formalities and subject to the provision of a substitute. It may be kept in view that in case of Provincial/Divisional cadre post, the substitute shall have to move first to join his post in FATA.

(Authority: S&GAD's letter No. DOR(S&GAD)1-186/96, dt. 28.3.1997)

Approved
by
AD PWD
FATA

— 2 —

law especially in the circumstance, when no any law has been shown that under which law the same is barred.

Replication to the Facts:-

1. This Para is correct to the extent of domicile, but at present as evident from her CNIC (Annexure "A" with the appeal) and call letter issued by respondents (Annexure R-I) at present the appellant is a permanent resident of Gul Mera Lund Khwar, Tehsil Takht Bhai District Mardan.
2. Admitted, therefore, need no replication.
3. Incorrect, false and misconceived, hence denied. Moreover, it is submitted that as evident from the posting/Adjustment (Annexure "C" with the appeal,) the Deputy Director (Respondent No 3) is not the appointing authority, he is only posting/adjustment authority after issuance such order by the competent authority.
4. That contents to the extent of tenure of the appellant have been admitted, while the remaining contents of this Para are incorrect, misconceived and are not according to the present circumstances, hence denied.

5. The contents of the extent of approach of the appellant for her transfer from FATA to settled area from District Bajour to District Mardan have been admitted, the remaining contents of this Para are incorrect, false and misconceived, hence denied.

Replication to the Grounds:-

Para A, B, C, D, E & F:-

The contents of these Paras are incorrect, false, misconceived and without proof, hence denied. Moreover, it is submitted that the act and omission of the respondents is illegal, unconstitutional, without lawful authority and of no legal effect, discriminatory in nature and is based on malafide intention of the respondents. The appellant has not been treated in accordance with law/ rules / polices and notifications of the Provincial Government, the constitutional provisions contained in Article 35 and others have been violated and the same is against the law/rules/polices in prevailing circumstances.

G & I: The contents of Paras G & I are incorrect, false, misconceived and are against the policy of the Govt: of Khyber Pakhtunkhwa, which is now applicable in the case, therefore, are denied.

— 4 —

H. The contents of Para H are incorrect, false, misconceived and baseless, hence denied. According to policy of the Govt: of KPK being unmarried female, now the appellant can be transferred to the nearest station which is nearest to the residence of her parents.

It is, therefore, humbly prayed that on acceptance of the above and grounds mentioned and facts narrated in the appeal, the appeal of the appellant may kindly be accepted and the relief claimed in the appeal may kindly be granted to the appellant.

Any other remedy/relief available in the circumstances of the case may also kindly be granted to the appellant.

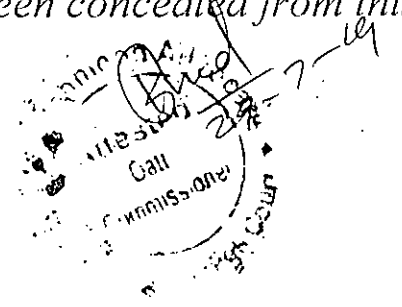
Dated:- 26/07/2019

Through:-

Shahnaz Begum
Mst: Shahnaz Begum
Appellant
Syed Younas Jan
Syed Younas Jan
Advocate, Peshawar.

AFFIDAVIT:-

I, Mst: Shahnaz Begum (Appellant) It is, stated on oath that the contents of the accompanying **Replication** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.



Shahnaz Begum
DEPONENT

15000-6847954-8

Directorate of Population Welfare (FATA)

Warsak Road, Peshawar.

Annex R-I

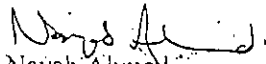
5

No. 101/2005-Vol-II/POP.
Peshawar, the 28/02/2005

To:

Shekraz Begum, D/O Ali Akbar Khan,
vill: Gul Mera P.O. Lund Khurd Teh:
Takhat Bahi Dist. Mardan.

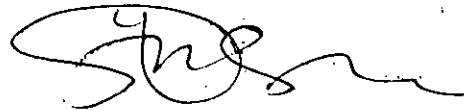
You are requested to attend this office on 7th March 2005 for signing of surety bond for further processing your application to the post of Family Welfare Worker (BPS-9) in the Directorate of Population Welfare (FATA).


Nayab Ahmad
DD (Population)

Copy to:
DS (Adm) Governors Secretariat FATA

DD (Population)

Attested



Syed Yousuf Jan
Advocate Peshawar

KHYBER PAKHTUNKWA SERVICE TRIBUNAL, PESHAWAR

No. 40 /ST Dated 8-1- /2020

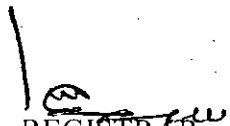
To

The Secretary Population Welfare Department,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: - JUDGMENT IN APPEAL NO. 826/2018, MR. SHAHNAZ BEGUM.

I am directed to forward herewith a certified copy of Judgement dated 20.12.2019 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.

law especially in the circumstance, when no any law has been shown that under which law the same is barred.

Replication to the Facts:-

1. This Para is correct to the extent of domicile, but at present as evident from her CNIC (Annexure "A" with the appeal) and call letter issued by respondents (Annexure R-I) at present the appellant is a permanent resident of Gul Mera Lund Khwar, Tehsil Takht Bhai District Mardan.
2. Admitted, therefore, need no replication.
3. Incorrect, false and misconceived, hence denied. Moreover, it is submitted that as evident from the posting/Adjustment (Annexure "C" with the appeal,) the Deputy Director (Respondent No 3) is not the appointing authority, he is only posting/adjustment authority after issuance such order by the competent authority.
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Replication to the Grounds:-

Para A, B, C, D, E & F:-

The contents of these Paras are incorrect, false, misconceived and without proof, hence denied. Moreover, it is submitted that the act and omission of the respondents is illegal, unconstitutional, without lawful authority and of no legal effect, discriminatory in nature and is based on malafide intention of the respondents. The appellant has not been treated in accordance with law/ rules / polices and notifications of the Provincial Government, the constitutional provisions contained in Article 35 and others have been violated and the same is against the law/rules/polices in prevailing circumstances.

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It is, therefore, humbly prayed that on acceptance of the above and grounds mentioned and facts narrated in the appeal, the appeal of the appellant may kindly be accepted and the relief claimed in the appeal may kindly be granted to the appellant.

Any other remedy/relief available in the circumstances of the case may also kindly be granted to the appellant.

Dated:- 26/07/2019

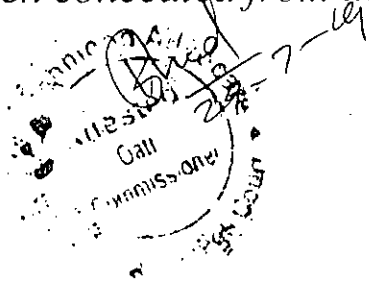
Shahnaz Begum
Mst: Shahnaz Begum
Appellant

Through:-

Syed Younas Jan
Syed Younas Jan
Advocate, Peshawar.

AFFIDAVIT:-

I, Mst: Shahnaz Beugm (Appellant) It is, stated on oath that the contents of the accompanying **Replication** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.



Shahnaz Begum
DEPONENT

15000-6847954-8

Directorate of Population Welfare (FATA)

Warsak Road, Peshawar.

Annex R-I

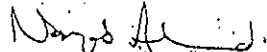
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No. 101/2005-Vol-01/PP.
Peshawar, the 28/02/2005

To:

Shehraz Begum, D/O Ali Akbar Khan,
vill: Gul Mera P.O. Lund Khurd Teh:
Tahsil Bahi Dist. Mardan.

You are requested to attend this office on 7th March 2005 for signing of surety bond for further processing your application to the post of Family Welfare Worker (BPS-9) in the Directorate of Population Welfare FATA.


Nayab Ahmad
DD (Population)

Copy to:
DS (Adm) Governors Secretariat FATA

DD (Population)

Attested



Syed Yousaf Jan
Advocate Peshawar

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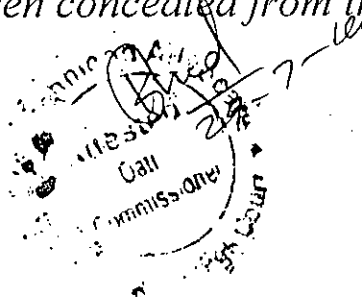
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15000-6847954-8

Directorate of Population Welfare (FATA)

Warsak Road, Peshawar.

Annex R-I

5

No. 101/2005-Vol-II/PWP.
Peshawar, the 28/02/2005

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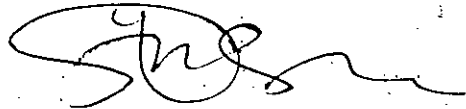
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Nayab Ahmad
Nayab Ahmad
DD (Population)

Copy to:
DS (Adm) Governors Secretariat FATA

DD (Population)

Attested



Syed Yousuf Jan
Advocate Peshawar

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Mst: Shahnaz Begum
Appellant
Syed Younas Jan
Syed Younas Jan
Advocate, Peshawar.

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Shahnaz Begum
DEPONENT

15000-6847954-8

Directorate of Population Welfare (FATA)

Warsak Road, Peshawar.

Annex R-I

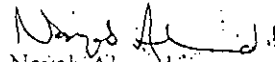
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No. 1(1)/2005-Vol-A/PPF
Peshawar, the 28/02/2005

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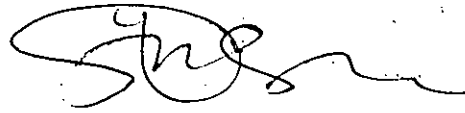
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Nayab Ahmad
DD (Population)

Copy to:
DS (Adm) Governor's Secretariat FATA

DD (Population)

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Syed Yousuf Jan
Advocate Peshawar

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Through:-

Shahnaz Begum
Mst: Shahnaz Begum
Appellant
Syed Younas Jan
Syed Younas Jan
Advocate, Peshawar.

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Shahnaz Begum
DEPONENT
15000-6847954-8

Shahnaz Begum
DEPONENT

15000-6847954-8

Directorate of Population Welfare (FATA)
Warsak Road, Peshawar.

Annex R-I

5

No. 101/2005-Vol-II/POP.
Peshawar, the 28/02/2005

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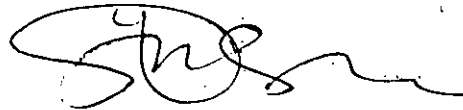
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Nayab Ahmad
Nayab Ahmad
DD (Population)

Copy to:
DS (Admin) Governors Secretariat FATA

DD (Population)

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Syed Yousuf Jan
Advocate Peshawar

law especially in the circumstance, when no any law has been shown that under which law the same is barred.

Replication to the Facts:-

1. This Para is correct to the extent of domicile, but at present as evident from her CNIC (Annexure "A" with the appeal) and call letter issued by respondents (Annexure R-I) at present the appellant is a permanent resident of Gul Mera Lund Khwar, Tehsil Takht Bhai District Mardan.
2. Admitted, therefore, need no replication.
3. Incorrect, false and misconceived, hence denied. Moreover, it is submitted that as evident from the posting/Adjustment (Annexure "C" with the appeal,) the Deputy Director (Respondent No 3) is not the appointing authority, he is only posting/adjustment authority after issuance such order by the competent authority.
4. That contents to the extent of tenure of the appellant have been admitted, while the remaining contents of this Para are incorrect, misconceived and are not according to the present circumstances, hence denied.

- 3 —
5. *The contents of the extent of approach of the appellant for her transfer from FATA to settled area from District Bajour to District Mardan have been admitted, the remaining contents of this Para are incorrect, false and misconceived, hence denied.*

Replication to the Grounds:-

Para A, B, C, D, E & F:-

The contents of these Paras are incorrect, false, misconceived and without proof, hence denied. Moreover, it is submitted that the act and omission of the respondents is illegal, unconstitutional, without lawful authority and of no legal effect, discriminatory in nature and is based on malafide intention of the respondents. The appellant has not been treated in accordance with law/ rules / polices and notifications of the Provincial Government, the constitutional provisions contained in Article 35 and others have been violated and the same is against the law/rules/polices in prevailing circumstances.

G & I: The contents of Paras G & I are incorrect, false, misconceived and are against the policy of the Govt: of Khyber Pakhtunkhwa, which is now applicable in the case, therefore, are denied.

— 4 —

— 4 —

H. The contents of Para H are incorrect, false, misconceived and baseless, hence denied. According to policy of the Govt. of KPK being unmarried female, now the appellant can be transferred to the nearest station which is nearest to the residence of her parents.

It is, therefore, humbly prayed that on acceptance of the above and grounds mentioned and facts narrated in the appeal, the appeal of the appellant may kindly be accepted and the relief claimed in the appeal may kindly be granted to the appellant.

Any other remedy/relief available in the circumstances of the case may also kindly be granted to the appellant.

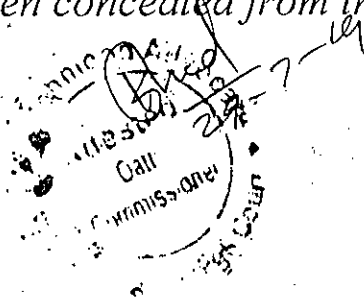
Dated:- 26/07/2019

Through:-

Shahnaz Begum
Mst: Shahnaz Begum
Appellant
Syed Younas Jan
Syed Younas Jan
Advocate, Peshawar.

AFFIDAVIT:-

I, Mst: Shahnaz Beugm (Appellant) It is, stated on oath that the contents of the accompanying **Replication** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honourable Court.



Shahnaz Begum
DEPONENT

15000-6847954-8

Directorate of Population Welfare (FATA)

Warsak Road, Peshawar.

Annex R-I

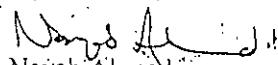
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No. 101/2005-Vol-II/PPF.
Peshawar, the 28/02/2005

To,

Shekraz Begum, D/O Ali Akbar Khan,
vill: Gulmura P.O. Lund, Khuzd Teh:
Tahsil Bahi Dist: Mardan.

You are requested to attend this office on 7th March 2005 for signing of surety bond for further processing your application to the post of Family Welfare Worker (BPS-9) in the Directorate of Population Welfare FATA.


Nayab Ahmad
DD (Population)

Copy to:
DS (Adm) Governors Secretariat FATA

DD (Population)

Attested



Syed Yousuf Jan
Advocate Peshawar