

26.02.2019

Appellant in person and Mr. Kabirullah Khattak Addl; AG for the respondents present. No one present on behalf of respondent department. Last opportunity is granted. To come up for written reply/comments on 11.03.2019 before S.B


(Ahmed Hassan)
Member

11.03.2019

Learned counsel for the appellant present. Written reply not submitted. Shah Nawaz litigation Assistant representative of the respondent department absent. He be summoned with the direction to furnish written reply/comments. Adjourn. To come up for written reply/comments on 15.04.2019 before S.B

AJA


Member

15.04.2019

Learned counsel for the appellant present and seeks withdrawal of the present service appeal with permission to file fresh one. Application for withdrawal of the present service appeal was also submitted and placed on file. Application is allowed at the risk and costs of the appellant. Consequently the present service appeal is hereby dismissed as withdrawn. The appellant is at liberty to file fresh service appeal subject to the legal repercussions/objections. No order as to costs. File be consigned to the record room.



(Muhammad Hamid Mughal)
Member

ANNOUNCED.
15.04.2019

16.1.2019

Mr. Muhammad Mahaz Madni Advocate for appellant and Addl. AG for the respondents present.

Learned counsel for the appellant requests for time to update the nomenclature of respondents due to merger of FATA. May do so within a week, where-after, notices be issued to respondents for 31.01.2019 with the direction to submit their respective comments/reply to the appeal.

Chairman




31.01.2019

Counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG for the respondents present and requested for adjournment for filing of written reply. Adjourned. To come up for written reply /comments on 11.02.2019 before S.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

11.02.2019

Junior to counsel for the appellant present. Written reply not submitted. No one present on behalf of respondent department. Notice be issued to the respondent department with direction to furnish written reply/comments. Adjourn. To come up for written reply/comments on 26.02.2019 before S.B.


Member

Appeal No. 1290/2018
Zaristan Khan vs Govt

18.10.2018

Learned counsel for appellant present. Preliminary arguments heard.

The appellant (Dispenser) has filed the present appeal u/s 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, against the order dated 04.06.2018 whereby his services were placed at the disposal of Additional Agency Surgeon Lower and Central Kurram at Sadda for further posting against the vacant post of Dispenser (BPS-12) w.e.f the date of his relieving by the Agency Surgeon Mohmand i.e. 19.03.2018. Perusal of the file would show that the appellant was working as surplus staff under ADP Scheme CHCs/CDs Mohmand Agency and was adjusted/posted against the vacant post of Pharmacy Technician vide order dated 03.08.2017 issued by Agency Surgeon Mohmand Agency. However on 19.03.2018 he was relieved by the Agency Surgeon Mohmand.


Points raised need consideration. The present appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to the respondents for written reply/comments. To come up for written reply/comments on 04.12.2018 before S.B. Learned counsel for the appellant also requested for suspension of impugned order, however at this stage no case was made out for the grant of ad-interim relief.

Appellant Deposited
Security & Process Fee


Member

04.12.2018

Nemo for appellant. Fresh notice be issued to the parties. The respondents shall be required to furnish comments/reply on 16.01.2019 before S.B.


Chairman

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. _____ 1290/2018 _____

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	10/10/2018	<p>The appeal of Mr. Zaristan Khan presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR 10/10/18.</p>
2-	12-10-2018	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>18-10-2018</u></p> <p style="text-align: right;"><i>[Signature]</i> Member</p>

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

APPEAL NO. 1290 /2018

ZARISTAN KHAN

V/S


HEALTH DEPTT:

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APPELLANT

THROUGH:


**NOOR MOHAMMAD KHATTAK
ADVOCATE**

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 1290 /2018

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 1517

Dated 10-10-2018

Mr. Zaristan Khan, Dispenser/Technician (BPS-12),
Under transfer from the o/o District Health Officer,
District Mohmand to the O/O Additional District Health Officer,
Lower & Central Kurram **APPELLANT**

VERSUS

- 1- The Additional Chief Secretary (Merged Area), FATA Secretariat, Warsak Road, Peshawar.
- 2- The Director Health Services (Merged Area), FATA Secretariat, Warsak Road, Peshawar.
- 3- The District Health Officer, Mohmand at Ghallanai.
- 4- The Additional District Health Officer, Lower & Central Kurram..... **RESPONDENTS**

APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED ORDER DATED 04-06-2018 WHEREBY THE APPELLANT HAS BEEN TRANSFERRED PRE MATURELY & AGAINST THE AGENCY CADRE POLICY 2009 AND AGAINST NOT TAKING ANY ACTION ON THE DEPARTMENTAL APPEAL OF THE APPELLANT WITH IN THE STATUTORY PERIOD OF 90 (NINETY) DAYS

PRAYERS:

That on acceptance of this appeal the impugned transfer order dated 04-06-2018 may very kindly be set aside and the respondents may be directed to retain the appellant on his original place of posting at Mohmand Agency. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

Filed to-day
Registrar
10/10/18

R/SHEWETH:

ON FACTS:

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

- 1- That appellant initially appointed as Dispenser (BPS-06) now (BPS-12) in Mohmand Agency and the services of the appellant were regularized through W.P. No. 3451-P/2012 decided on 20-10-2016. Copy of the judgment is attached as annexure **A.**

- 2- That direction were issued to respondent no. 2 for implementation of the operative part of the judgment dated 20-10-2016 and accordingly the appellant was adjusted against the vacant regular post of Pharmacy Technician by respondent no. 3 vide order dated 03-08-2017. Copy of the letter & order is attached as annexure **B&C.**
- 3- That astonishingly just after one year the appellant was prematurely transferred from District Mohmand to District Kurram vide impugned order dated 4.6.2018. Copy order is attached as annexure **D.**
- 4- That, feeling aggrieved the appellant filed Departmental Appeal before the competent authority against the impugned order dated 04-06-2018 which was not responded till date. Copy of the Departmental Appeal is attached as annexure **E.**
- 5- That appellant having no other remedy but to file the instant appeal on the following grounds amongst the others.

GROUND:

- A- That the impugned transfer order dated 04-06-2018 is against the law, facts, norms of natural justice and materials on the record hence not tenable and is liable to be set aside.
- B- That appellant has not been treated by the respondent Department in accordance with law and rules on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.
- C- That the respondents acted in arbitrary and malafide manner by transferring the appellant from his original post of Pharmacy Technician at Mohmand District.
- D- That the respondents have intentionally relieved the appellant from his original post of Pharmacy Technician at Mohmand District, just to accommodate their blue eyed person on the said post.
- E- That the post held by appellant is his original post on which he was initially appointed in light of Appointment, promotion and transfer Rules 1989 but the respondents malafidely relieved of the appellant to another District.
- F- That, the post of the appellant is purely an Agency/District Cadre post and the respondents have violated their own Agency Cadre Policy of 2009. Copy of the Policy is attached as annexure **F.**

- G-** That the impugned order dated 4.6.2018 is pre mature in light of the transfer/posting policy of the provincial Government. Copy of the policy is attached as annexure **G.**
- H-** That the impugned order dated 4.6.2018 has not been issued in the public interest nor exigencies of public service, therefore not tenable and liable to be set aside.
- I-** That appellant seeks permission to advance other 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.


Dated: 09-10-2018

APPELLANT


ZARISTAN KHAN

THROUGH:


NOOR MOHAMMAD KHATTAK


MUHAMMAD MAAZ MADNI
ADVOCATES, PESHAWAR

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. _____/2018

ZARISTAN KHAN

V/S

HEALTH DEPTT:

APPLICATION FOR SUSPENSION OF OPERATION OF
THE IMPUGNED ORDER DATED 04.06.2018 TILL THE
DISPOSAL OF THE ABOVE MENTIONED APPEAL

R/SHEWETH:

- 1- That the above mentioned appeal along with this application has been filed the appellant before this august service Tribunal in which no date has been fixed so far.
- 2- That appellant filed the above mentioned appeal against the impugned order dated 04.06.2018.
- 3- That all the three ingredients necessary for the stay is in favor of the appellant.
- 4- That the impugned order dated 04.06.2018 had been issued by the respondents in utter disregard of law and prevailing Rules.

It is therefore, most humbly prayed that on acceptance of this application the impugned order dated 04.06.2018 may very kindly be suspended till the disposal of the above mentioned appeal.

Dated: 09.10.2018


APPLICANT

ZARISTAN KHAN

THROUGH:

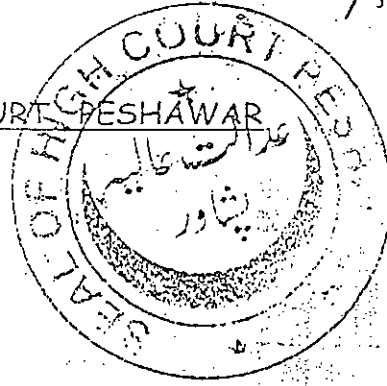

NOOR MOHAMMAD KHATTAK

&


MUHAMMAD MAZ MADNI
ADVOCATES

A - 57

BEFORE THE PESHAWAR HIGH COURT PESHAWAR



Writ Petition No. 3451-P/2012

1. Muskar Shah S/o Akbar Said
Pharmacy Technician Community Health Centre Paranghar
Now Ehsan Mohmand Agency
2. Zaristan S/o Nadir Khan
Health Technician Community Health Centre Paranghar
Kotagai Mohmand Agency
3. Zard Ali Shah S/o Muhammada Jan
Pharmacy Technician Community Health Centre Ajeerigai
Mohmand Agency.
4. Sajjad Ahmad S/o Abdul Wahab
Pharmacy Technician Community Health Centre Tamara
Mohmand Agency
5. Ahmad Khan S/o Salamat Khan
Pharmacy Technician Civil Dispensary Ghazibaig
Mohmand Agency.
6. Noor Hussain S/o Abdul Akbar
Pharmacy Technician Community Health Centre,
Spinkay Tangai Mohmand Agency.

.....Petitioners

Versus

1. Province of K.P.K., through Secretary Health
Department, Civil Secretariat, Peshawar.
2. Additional Chief Secretary (FATA), FATA Secretariat,
Peshawar.
3. Director General Health Department Govt. of K.P.K.
Peshawar.

ATTESTED
FOR REGISTRAR
Peshawar High Court

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JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT, PESHAWAR
JUDICIAL DEPARTMENT



W.P. No.3451-P/2012
(with CM# 575/2015)

JUDGMENT

Date of hearing: : 20th October, 2016
Petitioner(Muqadar Shah) By: Mr.Ghulam Nabi, -
advocate
Respondents(Govt. of KPK etc) By: Mr.Rab Nawaz Khan,
AAG.

NISAR HUSSAIN KHAN, J:- Petitioners by way of instant petition
seek regularization of their posts against which they were
reinstated.

2. it is averred in the petition that petitioners are
employees of Health Department (FATA) who were appointed on
contract with reference to Advertisement floated in 2002, 2003
and 2005; that during the subsistence of their contract service,
NWFP Civil Servants Amendment Act, 2005 was promulgated
which was followed by Federal Government Notification of 4th
June, 2008. In 2010, they received Notification vide which their

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MINER
High Court

services were dispensed with in the ADP of 2010-2011. All such employees voiced against said termination/withdrawal of their appointment which proved fruitful and their termination order was withdrawn. On 22.2.2012, Notification of re-instatement of 29 employees of the Mohmand Agency was issued including the petitioners. Petitioners have been receiving their salaries of BPS-9 after their regularization/reinstatement. However, it revealed later on that they will be treated as project employees and shall be governed under the Project Policy rules. Some of the petitioners' colleagues have been regularized following by payment of back benefits but petitioners have been discriminated.

3. Respondents in their comments have raised various legal and factual objections. However, while responding to Para-4, it is stated in the comments that petitioners' project posts were upgraded from BPS-6 to BPS-9 vide Notification dated 4.6.2008. During the course of arguments, learned AAG sought time to provide copy of notification but after considerable time at closing hours, he appeared before the court and stated that though he had tried to contact the respondents on telephone but they are not responding and are avoiding to provide any

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EXAMINEE
M. A. H. Khan

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(8)

such record. So in these circumstances, he made candid statement that let petition be allowed because respondents have no defence to offer.

4. The appointment orders of the petitioners annexed with the petition as Annexure-B reveal that petitioner No.1 was appointed on 26.12.2003, petitioner No.2 on 14.7.2006, petitioner No.3 on 28.11.2002, petitioner No.4 on 2.4.2007, petitioner No.5 on 13.7.2006 & petitioner No.6 on 22.10.2004 by Director of Health Services (FATA) on contract basis. All the initial 5 petitioners in BPS-6 and petitioner No.6 in BPS-9. There is no reference of Project employment in any of the appointment orders, so this stance of respondents holds no water. Government of Pakistan, Cabinet Secretariat Establishment Division, Islamabad issued office Memorandum No. 10/30/2008-R-II, dated 29th August, 2008, with the caption/subject "Regularization of BS-1 to BS-15 Contract Employees - Cabinet Decision case No.76/10/2008, dated 4.6.2008" vide which Joint Secretary had conveyed to all the Secretaries/Additional Secretaries, Incharge Ministries and Divisions in Islamabad as follows:-

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"The undersigned is directed to state that the Federal Cabinet has decided that all those employees who were working on contract basis against posts in BS-1 to BS-15 on the Federal Ministries/Divisions/Attached Department s/Subordinate Offices/Autonomous/Semi Autonomous Bodies/Corporations and were appointed up to 03.06.2008 may be regularized. The decision of the Cabinet will also apply to the contract employees working in FATA.

2. The eligibility criteria for regularization of the contract employees may be as under:-

Eligibility Criteria:

a) All those employees who are working on contract basis against posts in BPS-1 to 15 in Federal Ministries/Divisions/Attached Departments/ Subordinate/Autonomous/Semi Autonomous Bodies/ Corporations and were appointed prior to the decision of Cabinet dated 4.6.2008 (viz upto 3.6.2008) may be regularized.

b) Those who are working against tenure posts, project posts or daily wages, or those who are paid from contingent or defence budget are not eligible for regularization....."

5. Learned counsel for petitioners provided copies of orders of Petitioners No.1 & 3 who had been regularized vide office order No.196-99/ASM & No.200-203/ASM, each dated 20th January, 2016. Since there is clear direction of the Federal Government that all the contract employees of FATA working against posts of BS-1 to 15 who were appointed prior to 4.6.2008, the date of decision of the Cabinet Division may be

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EXAMINER
Peshawar High Court

29 OCT 2016

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regularized. Petitioners qualify the eligibility criteria laid down by the Federal Government on all the fours. Respondents were required to pass a corresponding order of regularization of the contract employees. But they failed to discharge their legal obligation. Beside that petitioners No.1 & 3 had been regularized but rest had been discriminated without assigning any reason qua classification of intelligible differentia. Respondents cannot discriminate similarly placed employees and treat them with different yardsticks. Above all, the learned AAG has frankly conceded that petitioners are entitled for their regularization. —

6. Thus by accepting instant petition, respondents are directed to pass formal regularization order of rest of the petitioners like that of petitioners No.1 & 3.

[Signature]
JUDGE

Announced on
29th Oct., 2016

[Signature]
JUDGE

Office
25/10/16

Sd/- Nisar Hussain - J
Sd/- Musabir Hilal - J

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CERTIFIED TO BE TRUE COPY

Examiner
Peshawar High Court, Peshawar
Appointed by the Government of F.P. for
the District Shariat Order 1984

29 OCT 2016



DIRECTORATE GENERAL HEALTH SERVICES,
KHYBER PAKHTUNKHWA, PESHAWAR

B
①①

All communications should be addressed to the Director General Health Services Peshawar and not to any official by name.
Exchange # 091-9210187, ☎ Tele # 9210196 Fax # 091-9210230

MOST IMPORTANT

COURT MATTER

MOST IMMEDIATE

3741-11/AD (Lit)

Dated 19/6/2017

Director Health Services,
FATA, Peshawar.

Subject:

COURT JUDGMENT IN WRIT PETITION NO. 3451-P/2012 – MUQADAR
SHAH ETC. VERSUS GOVERNMENT OF KHYBER PAKHTUNKHWA
AND OTHERS.

Please refer to your letter No. 11750/DHS/FATA/Liti: dated 01/06/2017, on the subject cited above.

You are requested to implement operative part of the judgment of Honorable Peshawar High Court, Peshawar, in letter and spirit.

M Naem
19/06/17

(Muhammad Naem)
Assistant Director (Lit. Cell)
Directorate General Health Services,
Khyber Pakhtunkhwa, Peshawar.

C.C. to:

1. PA to Director General Health Services, Khyber Pakhtunkhwa, Peshawar.

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~~B~~ C
12

**OFFICE OF THE AGENCY SURGEON
MOHMAND AT GHALLANAI**

OFFICE ORDER

Reference Director Health Services FATA letter No.16210-14/DHS/FATA/Liti dated 01-08-2017.

Mr. Zaristan S/O Nadir Khan regular Dispenser presently working as Surplus staff under ADP Scheme CHCs/CDs Mohmand Agency is hereby adjusted/posted against the vacant post of Pharmacy Technician with immediate effect in the interest of public.

.....Sd.....
Agency Surgeon
Mohmand Agency

No 3330-33/ASM

Dated 03/08/2017

Copy forwarded to the:

1. Director Health Services FATA, Peshawar with the above noted reference.
2. Political Agent Mohmand Agency.
3. Agency Accounts Officer Mohmand at Ghallanai.
4. Official concerned.

Agency Surgeon
Mohmand Agency

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DIRECTORATE OF HEALTH SERVICES FATA

FATA SECRETARIAT WARSAK ROAD PESHAWAR

PH # 091-9210212

FAX # 091-9212110

13
13

OFFICE ORDER

Mr. Zaristan Khan Dispenser (BS-12), waiting for posting, is hereby placed at the disposal of Additional Agency Surgeon Lower & Central Kurram at Sadda for further posting against the vacant post of Dispenser (BS-12) w.e.f the date of his relieving by Agency Surgeon Mohmand i-e 19-03-2018.

However, the official concerned has been regularized conditionally till the final decision on CPLA by Supreme Court of Pakistan with CP No.16-P/2017. In case the court decided the case against his favor, he will be reverted to his original ADP post.

--sd--

Director Health Services,
FATA, Peshawar.

No. 13621-25 /DHS/FATA/Admin

Dated 4 / 06 / 2018

Copy forwarded to the:-

1. Agency Surgeon Mohmand at Ghallianai.
2. Additional Agency Surgeon Lower & Central Kurram at Sadda.
3. Agency Accounts Officers Mohmand & Kurram Agencies.
4. Dispenser concerned.

For information and further necessary action.

Deputy Director (Admin),
DHS, FATA.

[Signature]
[Signature]

Received

[Signature]

6-7-2018

ATTESTED

بجگہ تصدیق - ڈائریکٹر ہیڈ کوارٹرز فائنڈ

(14) - E

دو اقساط پر آؤٹ اسٹوڈی آرڈر مورچہ 6/4
2018

ضابطہ نمبر 1

خود پائے تراشی ہے کہ میں آپ کے ذمہ سپاہیوں پر
ڈسپنشن کے وقت کے دوران سپاہیوں کی ترقی فارمیسی
نے فارمیسی ڈسپنشن کے وقت کے دوران 3-8-2017 کو کی گئی تھی
میں اور ڈیوٹی شروع کی تھی اور اس دوران میں
میں نے فارمیسی ڈسپنشن کے وقت کے دوران میں
تبادلہ کیا ہے۔ جبکہ میں نے ابھی مذکورہ آؤٹ اسٹوڈی آرڈر پر
tenure - عمل میں کیا ہے۔

گذاڑ چکا ہے تاکہ انہیں اس سے کہیں
جویشن والی مہینہ فارمیسی میں کرنے کے احکامات کے تحت
زبان پر مشکور زفات

المرقوم 8/6/2018

الکاتب

ذریعہ ن خان فارمیسی ڈسپنشن
مہینہ فارمیسی

10/10/2018



FATA SECRETARIAT
(COORDINATION & ADMINISTRATION DEPARTMENT)
WARSAK ROAD PESHAWAR

B-10

F-15

NOTIFICATION:-

The Competent Authority has been pleased to declare posts in **BS-1 to BS-15** in FATA as Agency Cadre for all departments devolved to District or settled side with District Cadres.

2- The Competent Authority has been further pleased to declare the following appointing authorities in respect of Agency Cadre posts:-

1- Posts in BS-1 to BS-10	Agency Officer in charge of the concerned department in Agency/FR
2- Posts in BS-11 to BS-15	Political Agent concerned.

ADDITIONAL CHIEF SECRETARY (FATA)

NO. FSA/E/1071/19 (NOI-23) BS 21-04
Dated 3/18/2009
Copy to:-

- All Administrative Secretaries in the Government of NWFP
- Secretary to Governor NWFP
- Secretary Finance Department, FATA Secretariat
- Secretary P&D Department, FATA Secretariat
- Secretary Law & Order Department, FATA Secretariat
- Secretary Zakat & Usra Department, FATA Secretariat
- Additional Accountant General (RX) Sub Office Peshawar
- All Heads of Law Department
- All Political Agents/DCAs (FRS)
- All Heads of Announcements Office
- PS to Additional Chief Secretary (Admin) FATA Secretariat
- PS to Secretary (Admin) Records Department, FATA Secretariat

Section Officer

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BS-1 to 15
is Agency cadre
post

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G-16



GOVERNMENT OF NWFP
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT
(Regulation Wing)

POSTING / TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT.

- i) All the posting/transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants
- ii) All Government servants are prohibited to exert political, Administrative or any other pressures upon the posting/transfer authorities for seeking posing/transfers of their choice and against the public interest.
- iii) All contract Government employees appointed against specific posts, can not be posted against any other post.
- iv) The normal tenure of posting shall be three years subject to the condition that for the officers/officials posted in unattractive areas the tenure shall be two years and for the hard areas the tenure shall be one year. The unattractive and hard areas will be notified by the Government.
- v) {
- 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.
- 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.

Para-1(v) regarding months of March and July for posting/transfer and authorities for relaxation of ban deleted vide letter No: SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-6-2008. Consequently authorities competent under the NWFP Government Rules of Business, 1985, District Government Rules of Business 2001, Posting/Transfer Policy and other rules for the time being in force, allowed to make posting/transfer subject to observance of the policy and rules. Added vide Urdu circular letter No. SOR-VI(E&AD)1-4/2003, dated 21-09-2004

- (xi) Officers/officials except DCOs and DPOs/SPs who are due to retire within one year may be posted on their option on posts in the Districts of their domicile and be allowed to serve there till the retirement
 DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales;

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

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

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

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

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

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

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

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

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

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

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

.....

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.

VAKALATNAMA

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

Appeal No. 1190/2017

Fazistan Khan

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Health Department

(RESPONDENT)
(DEFENDANT)

I/We Fazistan Khan

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

Dated. ____/____/2018

Fazistan Khan
CLIENT

Noor Mohammad Khattak
ACCEPTED
NOOR MOHAMMAD KHATTAK

Muhammad MAAZ Madni
&
MUHAMMAD MAAZ MADNI
ADVOCATES

OFFICE:
Room No.1, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.
Phone: 091-2211391
Mobile No.0345-9383141

VAKALATNAMA

Before the HP Service Tribunal Peshawar

_____ OF 2018

Zaristan Khan

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

Health Department

(RESPONDENT)
(DEFENDANT)

I/We Zaristan Khan

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

Dated. 18 / 10 / 2018



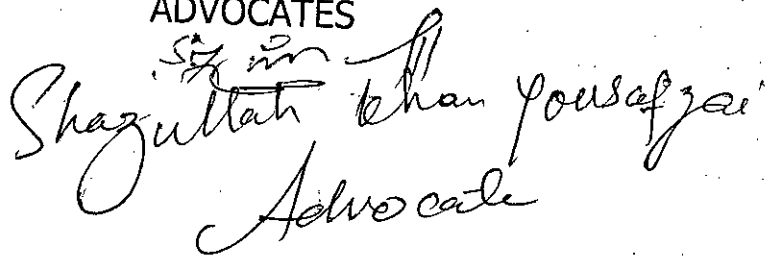
CLIENT



ACCEPTED

**NOOR MOHAMMAD KHATTAK
&**

**MUHAMMAD MAAZ MADNI
ADVOCATES**


Advocate

OFFICE:
Flat No.3, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.
Phone: 091-2211391
Mobile No. **0345-9383141**

کونوفاڈ — ڈاکٹر یحییٰ مدظلہ العالی سرور ستر فوٹا — Ex کاٹا

در فوٹو — ۱۱/۱۱/۱۹

۱۱/۱۱/۱۹ سے ۱۱/۱۱/۱۹

۱۱/۱۱/۱۹ سے ۱۱/۱۱/۱۹

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۱۱/۱۱/۱۹ سے ۱۱/۱۱/۱۹

DD-Admin
There is vacant line of subject
to with arrival of his case from
const.

۱۱/۱۱/۱۹

Before the Service Tribunal K.P., Peshawar.

Ap. No: 1290/2018

Zaristan Khan vs Health Dept (unged area)

15/4/2019

Application for the withdrawal of the above mentioned appeal.

Respectfully sheweth:

- ① That the above captioned case/appeal is pending adjudication before this August Tribunal, which is fixed for today i.e. 15/4/19.
- ② That the head of the department had assured the appellant in writing that he will be placed at the nearest station if possible if the appellant withdraw his appeal.
- ③ That now the appellant want to withdraw his appeal with above description as well as with the permission of this August Tribunal that if the grievances were not properly address so he may seek his remedy from this August Court.

It is therefore, requested that the ~~approval~~ acceptance of this application the appeal may be withdrawn with the permission to file fresh one if otherwise the decision of the department.

Dated: 15/4/19.

Zaristan Khan
Applicant