

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**SERVICE APPEAL NO. 1477/2018**

Date of institution ... 12.12.2018

Date of judgment ... 27.03.2019

Mir Faraz Khan S/o Noor Wali Khan  
Assistant Director Legal (DSP Legal)  
Anti Corruption Establishment, Peshawar ... (Appellant)

**VERSUS**

1. The Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat, Peshawar.
  2. The Secretary Government of Khyber Pakhtunkhwa Estt: & Admn: Deptt., Peshawar.
  3. The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
  4. The Director Anti Corruption Establishment Khyber Pakhtunkhwa, Peshawar.
  5. Secretary to Government of Khyber Pakhtunkhwa Home & Tribal Affair Department.
- ... (Respondents)

SERVICE APPEAL UNDER SECTION-4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED APPELLATE ORDER DATED 15.11.2018 PASSED ON THE DEPARTMENTAL APPEAL OF THE APPELLANT DATED 05.11.2018 FILED AGAINST THE ORIGINAL ORDER DATED 25.10.2018.

Mr. Ashraf Ali Khattak, Advocate. .. For appellant.  
Mr. Muhammad Jan, Deputy District Attorney .. For respondents.

Mr. MUHAMMAD AMIN KHAN KUNDI .. MEMBER (JUDICIAL)  
MR. HUSSAIN SHAH .. MEMBER (EXECUTIVE)

**JUDGMENT**

MUHAMMAD AMIN KHAN KUNDI, MEMBER: - Appellant

alongwith his counsel present. Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Arguments heard and record perused.

2. Brief facts of the case as per present service appeal are that the appellant is serving as DSP (Legal) in Police Department. The Director Anti Corruption Establishment Khyber Pakhtunkhwa (respondent No.4) requested the Provincial

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Police Officer Khyber Pakhtunkhwa (respondent No.3) that there is urgent need of DSP Legal in the Anti Corruption Establishment therefore, the services of the appellant may kindly be entrusted/surrender to the Anti Corruption Establishment on deputation basis therefore, the services of the appellant was entrusted/surrendered to the Anti Corruption Establishment vide Notification dated 30.09.2016 and the appellant in compliance of the order assumed the charge on 16.11.2016. The appellant was transferred from the Anti Corruption Establishment to parent department before normal period of deputation with immediate effect vide order dated 23.10.2018 by the Provincial Police Officer Khyber Pakhtunkhwa. The appellant filed departmental appeal on 05.11.2018 but the same was not responded hence, the present service appeal on 12.12.2018.

3. Respondents were summoned who contested the appeal by filing of written reply/comments.

4. Learned counsel for the appellant contended that the appellant is serving in Police Department as DSP (Legal). It was further contended that the Director Anti Corruption Establishment Khyber Pakhtunkhwa (respondent No.4) requested the Provincial Police Officer Khyber Pakhtunkhwa (respondent No.3) that there is urgent need of DSP Legal in the Anti Corruption Establishment therefore, the services of the appellant may kindly be entrusted/surrender to the Anti Corruption Establishment on deputation basis. It was further contended that the services of the appellant was entrusted/surrendered to the Anti Corruption Establishment vide Notification No. 1032/SE-1 dated 30.09.2016 and in compliance of the order, the appellant assumed the charge on 16.11.2016. It was further contended that before completing normal period of deputation, the Provincial Police Officer Khyber Pakhtunkhwa without consulting the borrowing department (respondent No. 4) unilaterally issued the impugned repatriation/transfer Notification No. 947 dated Peshawar the

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23.10.2018 and the appellant was posted as DSP (Legal) Swat with immediate effect. It was further contended that respondent No. 3 (Provincial Police Officer Khyber Pakhtunkhwa) was required to issue transfer/repatriation order in consultation with the Director Anti Corruption Establishment but the respondent No. 3 (Provincial Police Officer Khyber Pakhtunkhwa) has passed the transfer/repatriation order of the appellant without consultation of respondent No. 4 (Director Anti Corruption Establishment). It was further contended that after the impugned order, the Director Anti Corruption Establishment (respondent No. 4) also requested the Provincial Police Officer Khyber Pakhtunkhwa to recall the impugned transfer/repatriation order of the appellant as there were only three DSPs (Legal) available in Anti Corruption Establishment for the whole province while two DSP (Legal) were under training/course in Pakistan Provincial Services Academy, Peshawar and work load of the said under course DSPs have been surrendered to the appellant moreover, the normal tenure of the appellant deputation was also not completed. That the Director Anti Corruption Establishment (respondent No. 4) vide letter No. 19060/ACE, dated 20.11.2018 also requested the Secretary Government of Khyber Pakhtunkhwa Establishment and Administration Department Peshawar that there is shortage of Police Officer in Anti Corruption Establishment and no substitute has been posted in the place of the appellant and the normal tenure of the appellant was also not completed therefore, the Provincial Police Officer Khyber Pakhtunkhwa (respondent No. 3) may kindly be approached for withdrawal of the impugned order. It was further contended that the impugned transfer/repatriation order of the appellant was also premature and was in violation of rule-2 clause A&B of Deputation Policy. It was further contended that respondent No. 5 (Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs) also requested to respondent No. 3 (Provincial Police Officer Khyber Pakhtunkhwa) to withdraw the impugned transfer order but the

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request of respondent No. 5 was also turned down by respondent No. 3 without any reason, cause and justification. It was further contended that the wife of the appellant is also serving as Headmistress in Government Middle Malakander Peshawar and under the Wedlock Policy the appellant could not be transferred. It was further contended that prior to the transfer order/repatriation order no consent was obtained by the lending authority from the borrowing authority. It was further contended that since the impugned order is illegal and void therefore, prayed for acceptance of appeal.

5. On the other hand, learned Deputy District Attorney for the respondents opposed the contention of learned counsel for the appellant and contended that the appellant was transferred on deputation to the Anti Corruption Establishment by the competent authority. It was further contended that prior to the issuance of impugned transfer/repatriation order, the consultation was also made by the lending authority with the borrowing authority. It was further contended that the appellant being Provincial Police employee/civil servant supposed to be posted anywhere in the province. It was further contended that the transfer/repatriation order of the appellant was passed strictly in accordance with law and rules. It was further contended that the appellant has no vested right to claim post at place of his choice. It was further contended that the appellant was transferred on deputation basis from parent department to Anti Corruption Establishment and the deputationist did not have any right to remain on the post for ever or for stipulated period and he could be order to be repatriated to parent department at any time without assigning any reason. It was further contended that parent department of the deputationist was not obliged in law to assign any reason for his repatriation. It was contended that there is no malafide in the impugned transfer/repatriation order therefore, prayed for dismissal of appeal.

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6. Perusal of the record reveals that the appellant is serving in Police Department as DSP (Legal). He was transferred to the Anti Corruption Establishment vide order dated 30.09.2016 on deputation basis and assumed the charge on 16.11.2016 as per para-3 of service appeal. Though the appellant has claimed that the repatriation order was passed by the lending department without consent of the borrowing department but on the other hand, respondents in para-wise comments has stated that before issuance of impugned transfer/repatriation order proper consultation was made by the authority with the borrowing department and after obtaining the consent the order was issued in the best interest of public. The record further reveals that no doubt the appellant has not completed his normal tenure in the Anti Corruption Establishment but the appellant being civil servant could not claim posting at a particular station or place of his choice and the competent authority is empowered to transfer him from one place to another place at any time in urgency of service. In this regard reliance is place on 2004 PLC (C.S) page 705 Supreme Court of Pakistan <sup>wherein</sup> It was also held ~~in~~ —

**(b) Punjab Civil Servants Act (VIII of 1974)---**

---S.9---Constitution of Pakistan (1973), Art. 212(3)---  
 Transfer---Noncompliance of transfer policy---Grievance of  
 civil servant was that he was transferred before completion of  
 normal period---Transfer order was maintained by Service  
 Tribunal---Validity---Civil servant could not claim posting at  
 a particular station or at the place of his choice---Competent  
 authority under S.9 of Punjab Civil Servants Act, 1974, was

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empowered to transfer any civil servant from one place to another at any time in exigencies of service or on administrative ground---Civil servant having been transferred on administrative ground, such order was not in violation of the transfer policy---Supreme Court declined to take any exception to the judgment passed by Service Tribunal---  
Leave to appeal was refused.

7. The appellant was transferred to Anti Corruption Establishment on deputation basis and it is also well settled law that the deputationist has no vested right to remain on the post for ever or for stipulated period. Same way, there is no law that the deputationist should complete the tenure for which he/she has been deputed rather it lie within the discretion of the competent authority to repatriate a deputationist at any time without assigning any reason. In this regard reliance is made to 2014 PLC (C.S) 1077 Supreme Court of Pakistan titled Mansoor Abbas Rizvi Versus Federation of Pakistan through Secretary Establishment and others wherein it was held

**(a) Civil Servant Act (LXXI of 1973)---**

---S. 10---Posting on deputation---Deputationist, right of --  
-Scope--- Deputationist repatriated to his parent department without assigning of any reasons---Legality---Deputationist did not have any vested right to remain on the post for ever or for a stipulated period---Deputationist could be ordered to be repatriated to the parent department at any time without assigning any reason---Parent department of deputationist was not obliged in law, to assign any reason for his repatriation.

it was also held in 2010 SCMR 378 titled Dr. Shafi-ur-Rehman Afridi Versus C.D.A, Islamabad through Chairman and others

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## (a) Civil Servants Act (LXXI of 1973)---

---S. 10---Constitution of Pakistan (1973), Art. 185 (3)---

Constitutional jurisdiction---Terms and conditions of service---

--Deputation---Repatriation before time---Civil servant went

on deputation but he was returned to his parent department

before termination of his period of deputation---Civil servant

assailed order of termination of deputation before High Court

in Constitution petition, which petition was dismissed---

Validity---In absence of any specific provision of law,

deputationist could not ask to serve total period of deputation

and he could be repatriated being a deputationist by

competent authority in the interest of exigency of service as

and when so desired and such order of competent authority

could not be questioned---Provisions of Civil Servants Act,

1973, and rules made there under, as well as Esta Code were

silent about the fact that a deputationist must serve his entire

period of deputation and such omission seemed deliberate

enabling the competent authority to utilize service of an

employee in the manner as it might deem fit and proper---

Period of deputation could at the best be equated to that of an

expression of maximum period which could be curtailed or

extended by competent authority and no legal or vested rights

were available to a deputationist to serve his entire period of

deputation in borrowing department---Question as to whether

any valuable right whatsoever was accrued in favour of

petitioner as deputationist did not squarely fall within the

jurisdictional domain of competent authority and might be

agitated subject to all legal exceptions---Supreme Court

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declined to interfere in the judgment passed by High Court---  
leave to appeal was refused.

**(b) Constitution of Pakistan (1973)---**

---Art. 199---Constitutional petition---Scope---Vested right---  
Aggrieved person--- Deputation of civil servant---Scope---  
Civil servant has not vested right to complete deputation  
period and matter relating to terms and conditions of service--  
-constitutional jurisdiction as conferred upon High Court  
under Art. 199 of the Constitution cannot be invoked---  
Deputationist cannot be treated as 'aggrieved person'  
provided he was placed in the same grade and status in  
borrowing cadre which he was enjoying before his status of  
deputationist---Such civil servant has not vested right to  
remain on a post as deputationist for ever or for a stipulated  
period as mentioned in notification and can be repatriated at  
any time.

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**(d) Civil Servants Act (LXXI of 1973)---**

----S. 10----Deputation-Connotation---Deputation can be  
defined as an administrative arrangement between borrowing  
and lending authorities for utilizing services of an employee  
in public interest and exigency of services against a particular  
post----Deputationist cannot remain on deputation for an  
indefinite period or stipulated period in accordance with his  
own whims and wishes.

8. In the light of the above discussion, the Provincial Police Officer Khyber  
Pakhtunkhwa (respondent No. 3) has rightly transferred/repatriated the  
appellant to his parent department. Hence, the appeal has no force which is



hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED

27.03.2019


*Hussain Shah*

(HUSSAIN SHAH)  
MEMBER

*Muhammad Amin*  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

14.03.2019

Appellant in person present. Mr. Kabirullah Khattak, Additional AG alongwith M/S Suleman, Head Constable for respondents No. 1 to 3 & 5 and Mr. Musaddaq, Incharge (Litigation) for respondent No. 4 present. Representative of respondents No. 1 to 3 & 5 submitted written reply while representative of respondent No. 4 stated at the bar that he rely on the written reply submitted by respondents No. 1 to 3 & 5 on behalf of respondent No. 4. Adjourned. To come up for rejoinder and arguments on 27.03.2019 before D.B-I.

  
(Muhammad Amin Khan Kundi)

Member


27.03.2019

Appellant alongwith his counsel present. Mr. Muhammad Jan, Deputy District Attorney for the respondents present. Arguments heard and record perused. .

Vide our detailed judgment of today consisting of nine pages placed on file, the Provincial Police Officer Khyber Pakhtunkhwa (respondent No. 3) has rightly transferred/repatriated the appellant to his parent department. Hence, the appeal has no force which is hereby dismissed. Parties are left to bear their own costs. File be consigned to the record room.


ANNOUNCED

27.03.2019

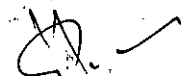
  
(HUSSAIN SHAH)  
MEMBER

  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

22.01.2019 Appellant in person present. Ayaz Inspector representative of the respondent No.4 present and seeks adjournment to furnish written reply on behalf of respondent No.4. No one present on behalf of remaining respondents, notice be issued to them with direction to furnish written reply/comments for 12.02.2019 before S.B.

  
Member

12.02.2019 Learned counsel for the appellant present. Sulaiman H.C representative of the respondent No.4 present. Written reply not submitted. Representative of respondent No.3 seeks time to furnish written reply/comments. No one is present on behalf of remaining respondents. Notice be issued to them with direction to furnish written reply/comments. Adjourn. To come up for written reply/comments on 28.02.2019 before S.B.

  
Member

28.02.2019 Appellant in person present. Sulaiman H.C representative of the respondent department present and adjournment on the ground that joint reply has been submitted to the authorities for signature. Adjourn. To come up for reply on 14.03.2019 before S.B. Notice be issued Mr. Abdur Rehman DSP legal for the next date with direction to furnish written reply.

  
Member

28.12.2018

Learned counsel for the appellant present.

In the present service appeal the appellant is mainly aggrieved against his repatriation to his parent department after having served for two (02) years in the Anticorruption Establishment Khyber Pakhtunkhwa Peshawar on deputation basis.

Arguments of Learned counsel for the appellant heard at length.

It is settled proposition that a civil servant has no right to question the order of his repatriation to the parent department.

Appellant Deposited  
Security Process Fee

In view of above, the prayer of the appellant for the grant of ad-interim relief is regretted. Fresh notice be issued to the respondent department with the direction to furnish written reply. Adjourn. To come up for written reply/comments on 10.01.2019 before S.B.

  
Member

10.1.2019

Counsel for the appellant and Addl. AG alongwith Ayaz Khan, Inspector Anticorruption and Salman Khan, H.C for the respondents present.

Representative of the respondents requests for adjournment as the requisite reply/comments are in the process of preparation. Adjourned to 22.01.2019 on which date the needful shall positively be done by the respondents, also in view of the fact that order of transfer has been impugned in the appeal in hand.

  
Chairman

13.12.2018

Counsel for the appellant Mir Faraz Khan present. Preliminary arguments heard. It was contended by the learned counsel for the appellant that the appellant was serving in Police Department as DSP (Legal), he was transferred on deputation to Anti-Corruption Department and assumed the charge in the Anti-Corruption Department on 16.11.2016. It was further contended that again without completing the normal tenure of three years, the appellant was transferred by the competent authority vide order dated 23.10.2018 to his parent department without any repatriation order. It was further contended that the said transfer order is against the posting/transfer policy. It was further contended that the wife of the appellant is also serving in Peshawar therefore, the transfer of the appellant to District Swat is also against the spouse policy therefore, the impugned order is illegal and liable to be set-aside.

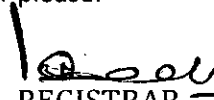

The contention raised by the learned counsel for the appellant needs consideration. The appeal is admitted for regular hearing subject to all legal objections. The appellant is directed to deposit security and process fee within 10 days, thereafter, notice be issued to the respondents for written reply/comments for 28.12.2018 before S.B. Learned counsel for the appellant also submitted application for suspension of the impugned order dated 23.10.2018 and 15.11.2018 of respondent No. 3 till the final disposal of the appeal. Notice of the same be sent to the respondents for the date fixed.

  
**Muhammad Amin Khan Kundi**  
Member

Form-A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 1477/2018

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	12/12/2018	<p>The appeal of Mr. Mir Faraz Khan presented today by Mr. Ashraf Ali Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR -</p>
2-	12/12/2018.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>13/12/2018</u>.</p> <p> CHAIRMAN</p>

## BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA

Service Appeal No. 1477/2018

Mir Faraz Khan S/o Noor Wali Khan Assistant Director Legal (DSP Legal) Anti Corruption Establishment, Peshawar .....Appellant

Versus

The Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat, Peshawar .....Respondents

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S.No.	Description of Documents	Date	Annexure	Pages
1.	Service Appeal			1 to 7
2.	Application for suspension with affidavit			8 to 11
3.	Copy of letter No.11241 dated 25-10-2016 therein the Director Anti Corruption Establishment, Khyber Pakhtunkhwa (respondent No.6) requested the Provincial Police Officer, Khyber Pakhtunkhwa (respondent No.3) that there is urgent need of DSP Legal in the Anti Corruption Establishment, therefore, the services of the appellant may kindly be entrusted/surrendered to the Establishment on deputation basis.	25-10-2016	A	12
4.	Copy of assumption of Charge		B	13


[S.No.]	[Description of Documents]	[Date]	[Annexure]	[Pages]
	as DSP Legal therein the services of the appellant were again surrendered to Anti Corruption Establishment on deputation basis			
5.	Copy of the impugned Order No.947/SE-1	23-10-2018	C	14
6.	Copy of letter No.17907/ACE, Dated 05-11-2018, therein the Director Anti Corruption Establishment (respondent No.4) requested the Provincial Police Officer (respondent No.3) to withdraw the impugned repatriation order	05-11-2018	D	15
7.	Copy of letter No.19060/ACE, Dated 20-11-2018, therein the Director Anti Corruption Establishment (respondent No.4) requested the Secretary Govt. of Khyber Pakhtunkhwa Estt. & Admn. Deptt., Peshawar (respondent No.2) to approach the respondent No.3 (PPO) to withdraw the impugned Notification.	20-11-2018	E	16
8.	Copy of departmental representation against the impugned repatriation/transfer Notification No. 947 Dated Peshawar the 23-10-2018	05.11.2018	F	17
9.	Copy of the posting order of the appellant wife		G	18
10.	Copy of letter No. SO (Police-II)/HD/8-2/018/ Mir Faraz Khan addressed to the Provincial Police Officer Khyber Pakhtunkhwa	04.12.2018	H	19
11.	Copy of Order No.1047/SE-1	15-11-2018	I	20



S.No.	Description of Documents	Date	Annexure	Pages
	Dated Peshawar 15 Nov, 2018 therein the legitimate request of the appellant and respondent No.4 was turned down by respondent No.3 without any reasonable cause and justification.			
12.	Copy of writ petition alongwith order of the Honorable Peshawar High Court Dated 07.12.2018.		J	2/30
13.	Copy of notification No.SOR-I (S&GAD) 1-14/82 dated 23.11.1985		K	31-32
14.	Wakalatnama			

Appellant

Through



Ashraf Ali Khattak  
 Advocate, High Court  
 9-B, Haroon Mansion,  
 Khyber Bazar, Peshawar.  
 Cell # 091-2213445

Dated 12/12/2018

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR

Service No. 1477/2018

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 1245

Dated 12-12-2018

Mir Faraz Khan S/o Noor Wali Khan  
Assistant Director Legal (DSP Legal)  
Anti Corruption Establishment, Peshawar.....Appellant.

Versus

1. The Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat, Peshawar.
2. The Secretary Govt: of Khyber Pakhtunkhwa Estt: & Admn: Deptt:, Peshawar.
3. The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.....**Respondents**
4. The Director Anti Corruption Establishment Khyber Pakhtunkhwa, Peshawar.....
5. Secretary to government of Khyber Pakhtunkhwa Home & Tribal Affair Department..... (Proforma Respondents).

**Filed to-day**  
*Registrar*  
12/12/18

SERVICE APPEAL UNDER SECTION-4 OF THE SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED APPELLATE ORDER DATED 15.11.2018 PASSED ON THE DEPARTMENTAL APPEAL OF THE APPELLANT DATED ~~05~~ 11-2018 FILED AGAINST THE ORIGINAL ORDER DATED 25-10-2018.

Respectfully Sheweth,

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

1. That appellant was enrolled as PSI in Police Force, Khyber Pakhtunkhwa in the year, 1993 and presently serving as Assistant Director Legal (DSP Legal) Anti Corruption Establishment, Peshawar on deputation basis.
2. That vide letter No.11241 dated 25-10-2016 (Annexure-A) the Director Anti Corruption Establishment, Khyber Pakhtunkhwa (respondent No.4) requested the Provincial Police Officer, Khyber Pakhtunkhwa (respondent No.3) that there is urgent need of DSP Legal in the Anti Corruption Establishment, therefore, the services of the petitioner may kindly be entrusted/surrendered to the ACE on deputation basis.
3. That the services of the appellant were entrusted/surrendered to the Anti Corruption Establishment vide Notification No. 1032/SE-1 dated 30.9.2016 and in compliance of the order appellant assumed his charge on 16.11.2016 (Annexure-B).
4. That before completion of normal period of deputation the Provincial Police Officer (respondent No.3) without consulting the borrowing department (respondent No.4) unilaterally issued the impugned repatriation/transfer Notification No. 947 Dated Peshawar the 23-10-2018 (Annexure-C) of the appellant and posted him as DSP Legal Swat with immediate effect.
5. That it is also pertinent to bring into the notice of this Hon'ble' Court that respondent No.3 has issued the impugned transfer

order for which he was not competent under the law. Appellant was on the strength of Anti Corruption Establishment and was not under his immediate administrative control. Respondent No.3 was required to issue the repatriation order in consultation with respondent No. 4 (Director Anti Corruption Establishment) and then to transfer him to any place in public interest. The respondent No.3 (PPO) issued the impugned transfer order directly in violation of law, rules and policy.

6. That the Director Anti Corruption Establishment (respondent No.4) vide letter No.17907/ACE, Dated 05-11-2018 (Annexure-D) requested the Provincial Police Officer (respondent No.3) that since only 03 DSP Legal are available in ACE for the whole province, while two DSP Legal are under training/course in Pakistan Provincial Services Academy, Peshawar and the work load of the said under course DSP's have been surrendered to the appellant and more over the normal tenure of the appellant's deputation has also not been completed therefore, under the circumstance the services of the appellant cannot be surrendered to the Police Department and he cannot be relieved.
7. That the Director Anti Corruption Establishment (respondent No.4) vide letter No.19060/ACE, Dated 20-11-2018 (Annexure-E) also requested the Secretary Govt: of Khyber Pakhtunkhwa Estt: & Admn: Deptt:, Peshawar that since there is acute shortage of Police Officer in ACE and no substitute has been posted to ACE in place of appellant and more over the normal period of the Deputationists/appellant has not been completed, therefore, the Provincial Police

Officer (respondent No.3) may kindly be approached for withdrawal/cancellation of the impugned transfer order.

8. That the appellant himself being aggrieved of the impugned transfer Notification No. 947 Dated Peshawar the 23-10-2018 submitted his departmental representation (Annexure-F) before the respondent No.3 and also made complaint through SMS vide His Complaint Cell#0315-9007777 and brought the agonies of the petitioner into his notice.
9. That appellant has been permanently settled in Peshawar. The wife of appellant has been serving as Headmistress in Govt: Middle Malakander (Annexure-G), Peshawar, therefore, under Wed Lock Policy appellant could not<sup>be</sup> transferred to Swat.
10. That numbers of (DSP Legal) has been serving in Executive Operation Staff since very long and they were not transferred due to having political backing and the appellant was made ~~g~~scape goat. They could be easily adjusted being under the immediate control of respondent No.3.
11. That it is also pertinent to mention that the respondent no.5 has also requested the respondent No.3 to withdraw/ cancel the impugned transfer order of the appellant being unlawful and against wedlock policy (Annexure-H).
12. That vides Order No.1047/SE-1 Dated Peshawar 15 Nov, 2018 (Annexure-I) the legitimate request of the appellant and respondent No.4 has been turned down by respondents without any reasonable cause and justification.

13. That it is pertinent to bring into the notice of this Hon'ble Tribunal that appellant filed writ petition before the Peshawar High Court, but the same was disposed-off being not maintainable under Article 212 of the Constitution (Annexure-J).
14. Hence appellant being aggrieved of impugned transfer Notification No. 947 Dated Peshawar the 23-10-2018 and the impugned appellate order dated 15-01-2018 having no adequate and efficacious remedy are constrained to file this appeal on the following amongst other grounds:

GROUND:-

- A. That the respondent has not treated the appellant in accordance with law, rules and policy and acted in violation of Article 4 of the Constitution of Pakistan, 1973. The normal tenure of deputationists is three (3) years extendable for further two years, but the appellant has been re-transferred before the completion of two years in violation of the Deputation Policy and that without any sort of urgency and without consulting the borrowing department (Annexure-K). On this score the impugned order is not maintainable in the eyes of law and is liable to be set-aside.
- B. That the borrowing department has shown its unwillingness to the impugned transfer order and requested for the withdrawal/cancellation of the impugned order and almost refuse to surrender the services of the appellant.
- C. That it is also pertinent to bring into the notice of this Hon'ble Tribunal that respondent No.3 has issued the impugned transfer order for which he was not competent under the law.

Petitioner was on the strength of Anti Corruption Establishment and was not under his immediate administrative control. Respondent No.3 was required to issue the repatriation order in consultation with respondent No. 4 (Director Anti Corruption Establishment) and then to transfer him to any place in public interest. The respondent No.3 (PPO) issued the impugned transfer order directly in violation of law, rules and policy. The impugned order is void ab initio.

- D. That appellant has been permanently settled in Peshawar. That the wife of appellant has been serving as Headmistress in Govt: Middle Malakander, Peshawar, therefore, under Wedlock Policy appellant could not<sup>be</sup> transferred to Swat.
- E. That the appellant has highly been discriminated, number of DSP Legal namely Kamal Hussain and Raza Muhammad etc has been serving in operational staff since long but they were not transferred to Swat due to political backing. This act of respondent is not only discriminatory but highly un-desirable and unwarranted and against the spirit and provisions of Article 27 of the Constitution of Pakistan 1973.
- F. That the appellant would like the permission of this Hon'ble' Tribunal to advance more grounds at the time of hearing.

It is therefore, humbly prayed that on acceptance of this appeal, this Hon'ble Tribunal may be pleased to:-

- (i) **Declare** the impugned transfer Notification No. 947 Dated Peshawar the 23-10-2018 and the order No.1047/SE-1 dated 15.11.2018 as unlawful and without lawful authority and also

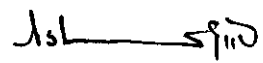
against the Wedlock Policy, Posting and Transfer Policy, Discriminatory and therefore be set aside.

- (ii) Direct the respondents to allow the appellant to complete his normal tenure as deputationists at ACE, Khyber Pakhtunkhwa, Peshawar.
- (iii) Any other relief as deemed appropriate in the circumstances of case not specifically asked for may also be granted to appellant.



**Appellant**

**Through**



Ashraf Ali Khattak  
Advocate,  
High Court of Pakistan

**Dated: 12 / 12 / 2018**



## BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA

Misc Application No. \_\_\_\_/2018

IN

Service Appeal No. \_\_\_\_/2018

Mir Faraz Khan S/o Noor Wali Khan Assistant Director Legal (DSP  
Legal) Anti Corruption Establishment, Peshawar .....Appellant

Versus

The Government of Khyber Pakhtunkhwa through Chief Secretary  
Civil Secretariat, Peshawar .....Respondents

APPLICATION FOR SUSPENSION OF THE  
IMPUGNED ORDER DATED 23.10.2018 and  
15.11.2018 OF THE RESPONDENT NO.3 TILL  
THE FINAL DISPOSAL OF THE APPEAL.

Respectfully Shewith,

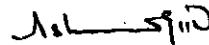
1. That the above titled service appeal is being filed today which is yet to be fixed for hearing.
2. That the facts alleged and grounds taken in the body of appeal may kindly be taken as an integral part of this application which make out an excellent prima facie case in favour of appellant/ applicant.
3. That the impugned order has been passed in glaring violation of the deputation and wedlock policy. Moreover all the

requisite ingredients fall in favour of applicant for the requisite interim relief.

It is therefore, humbly prayed that on acceptance of the instant application, this Honorable Tribunal may graciously be pleased to suspend the operation of the impugned order dated 23.10.2018 and dated 15.11.2018 till the final decision of the accompanying appeal .

Appellant

Through



Ashraf Ali Khattak  
Advocate High Court.

Dated: 12 /12/ 2018

## BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA

Service Appeal No. \_\_\_\_/2018


Mir Faraz Khan S/o Noor Wali Khan Assistant Director Legal (DSP  
Legal) Anti Corruption Establishment, Peshawar .....Appellant

Versus

The Government of Khyber Pakhtunkhwa through Chief Secretary  
Civil Secretariat, Peshawar .....Respondents

**AFFIDAVIT**

I, Mir Faraz Khan S/o Noor Wali Khan Assistant Director Legal  
(DSP Legal) Anti Corruption Establishment, Peshawar, do hereby  
solemnly affirm and declare on Oath that the contents of this  
application are true and correct to the best of my knowledge, and  
nothing has been concealed from this Hon'ble Tribunal.

  
Deponent

CNIC #111011425161-3

## BEFORE THE SERVICES TRIBUNAL KHYBER PAKHTUNKHWA

Service Appeal No. \_\_\_\_/2018

Mir Faraz Khan S/o Noor Wali Khan Assistant Director Legal (DSP  
Legal) Anti Corruption Establishment, Peshawar .....Appellant

**Versus**

The Government of Khyber Pakhtunkhwa through Chief Secretary  
Civil Secretariat, Peshawar ..... Respondents

**ADDRESSES OF PARTIES*****Appellant***


Mir Faraz Khan S/o Noor Wali Khan

Assistant Director Legal (DSP Legal)

Anti Corruption Establishment, Peshawar.....Appellant.

***Respondents***

1. The Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat, Peshawar.
2. The Secretary Govt: of Khyber Pakhtunkhwa Estt: & Admn: Deptt:, Peshawar.
3. The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.....**Respondents**
4. The Director Anti Corruption Establishment Khyber Pakhtunkhwa, Peshawar.
5. Secretary to government of Khyber Pakhtunkhwa Home & Tribal Affair Department..... **(Proforma Respondents)**.

**Through****Appellant**


Ashraf Ali Khattak  
Advocate,

High Court of Pakistan

Annex-A-12



DIRECTORATE OF  
ANTI-CORRUPTION ESTABLISHMENT  
KHYBER PAKHTUNKHWA  
PESHAWAR

No. 11241

/Dated 25/10/2016.

To

The Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.

Subject:- TRANSFER OF DSP LEGAL.

Kindly refer to your office order No. 1647/SE-I, dated 5.10.2016 vide which Mr. Mir Faraz, DSP Legal has been repatriated from this Establishment and posted at Investigation Unit CPO, Peshawar.

It is to state that there are 04 posts of A.Ds/Legal and 06 posts of Inspectors Legal in this Establishment while only one A.D.Legal Mr. Sohail Afzal is working in this organization and the remaining posts are lying vacant due to which the official business is badly suffered.

It is, therefore, requested that transfer order of Mr. Mir Faraz DSP Legal may kindly be cancelled and retained in this Establishment against the existing vacancy, please.

*[Handwritten Signature]*

Director,  
Anti-Corruption Establishment,  
Khyber Pakhtunkhwa,  
Peshawar.

*[Handwritten Mark]*

Attested  
True Copy  
JSL

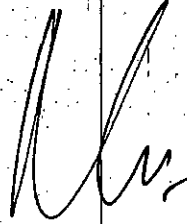
# Annex-B

13

## ASSUMPTION OF CHARGE

In compliance with Notification No. 1032/SE-I, dated 30.09.2016 and Notification No. 1192/SE-I, dated 14.11.2016 of Provincial Police Officer, Khyber Pakhtunkhwa, Peshawar, I, Mir Faraz Khan, DSP(Legal), assumed the charge of the office of Assistant Director Legal-I (BPS-17), Anti-Corruption Establishment, Peshawar, today on 15.11.2016 (Forenoon).

Dated 15.11.2016.



(MIR FARAZ KHAN)  
Assistant Director Legal-I,  
Anti-Corruption Establishment,  
Peshawar

## OFFICE OF THE DIRECTOR, ANTI-CORRUPTION ESTABLISHMENT, KHYBER PAKHTUNKHWA, PESHAWAR.

No. 1214651

/Dated 16/11/2016.

Copy of above is forwarded for information to the :-

1. Provincial Police Officers, Khyber Pakhtunkhwa, Peshawar
2. Accountant General, Khyber Pakhtunkhwa, Peshawar.
3. DIG of Police/HQrs, CPO, Peshawar.
4. PS to Chief Secretary, Government of Khyber Pakhtunkhwa, Peshawar.
5. PS to Secretary (Establishment), Government of Khyber Pakhtunkhwa, Peshawar.
6. Accountant, ACE, Peshawar.



Director,  
Anti-Corruption Establishment,  
Khyber Pakhtunkhwa,  
Peshawar.

Attested to true copy  
JSL

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~~Annex - C~~ (14)

Annex - C



PROVINCIAL POLICE OFFICER  
KHYBER PAKHTUNKHWA  
CENTRAL POLICE OFFICE, PESHAWAR  
Fax. No. 091-9210927

Dated Peshawar the 23 Oct, 2018

**NOTIFICATION**

No. 947 /SE-I, In exercise of the powers conferred upon the Provincial Police Officer, Khyber Pakhtunkhwa Peshawar under sub-section (4) of Section 17 of the Khyber Pakhtunkhwa Police Act, 2017, Mr. Mir Faraz (BS-17) DSP Legal Anti-Corruption Establishment Khyber Pakhtunkhwa is hereby transferred and posted as DSP Legal Swat with immediate effect.

10503  
29.10.18

Sd/-  
**SALAH-UD-DIN KHAN,**  
Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.

**Endst: No. & date even.**

Copy forwarded to the:-

1. Principal Secretary to Governor Khyber Pakhtunkhwa Peshawar.
2. Principal Secretary to Chief Minister Khyber Pakhtunkhwa Peshawar
3. Secretary, Govt: of Khyber Pakhtunkhwa Estt: & Admn: Deptt: Peshawar
4. Secretary, Govt: of Khyber Pakhtunkhwa Home & T.As Deptt: Peshawar
5. Secretary, Govt: of Khyber Pakhtunkhwa Finance Deptt: Peshawar
6. All Addl: Inspectors General of Police in Khyber Pakhtunkhwa Peshawar
7. Accountant General Khyber Pakhtunkhwa Peshawar.
8. Regional Police Officer Malakand at Saidu Sharif Swat.
9. Director Anti Corruption Establishment Khyber Pakhtunkhwa.
10. District Police Officer Swat.
11. AIG Establishment CPO Peshawar.
12. PSO to IGP Khyber Pakhtunkhwa Peshawar.
13. Director Public Relations Khyber Pakhtunkhwa Peshawar.
14. District Accounts Officer Swat.
15. Registrar CPO, Peshawar.
16. Supdt: Secret CPO, Peshawar.
17. Accountant CPO.
18. U.O.P File.

Attested to be true  
copy  
JSL

*[Handwritten signature]*

(SHER AKBAR)  
PSP, S.St

Deputy Inspector General of Police, HQrs.,  
For Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.

*[Handwritten signature]*  
24/10

Ret: Akht:

Plon. provide a copy to Cultural Academy



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15  
Annex-D

DIRECTORATE OF  
ANTI-CORRUPTION ESTABLISHMENT,  
KHYBER PAKHTUNKHWA,  
PESHAWAR.

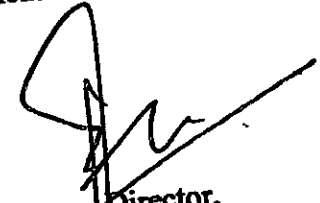
No. 1197/ACE, Dated 05/11/2018.


To  
The Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.

Subject:- REQUEST FOR CANCELLATION OF TRANSFER ORDER OF  
DSP LEGAL.

Memo: Please refer to notification No. 947 dated 23.10.2018 regarding transfer of Mr. Mir Faraz Khan, DSP Legal ACE to District Swat, it is to bring in your kind notice that out of 04 DSPs Legal, only 03 DSP Legal are available in ACE for whole Province while two DSPs Legal are under training/course in Pakistan Provincial Services Academy, Peshawar and the work load of said under course DSPs have been surrendered to Mr. Mir Faraz Khan, DSP Legal ACE. He has not completed normal period of deputation i.e 03 years in ACE.

Keeping in view the need urgency of this Establishment he could not be relieved and it is requested that transfer order/notification may please be cancelled/withdraw in best interest of this Establishment.

  
Director,  
Anti-Corruption Establishment,  
Khyber Pakhtunkhwa,  
Peshawar.

  
o/c  
Attested True Copy  
JSL

C. J. BARNARD

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Annex-E

DIRECTORATE OF  
ANTI-CORRUPTION ESTABLISHMENT,  
KHYBER PAKHTUNKHWA,

19060 PESHAWAR.  
No. /ACE, Dated 2/11/2018.

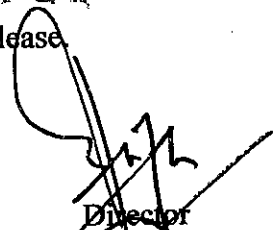
To  
The Secretary,  
Govt: of Khyber Pakhtunkhwa  
Establishment Department,  
Peshawar.

Subject: REQUEST FOR WITHDRAWAL/CANCELLATION OF NOTIFICATION  
NO.947/SE-I DATED 23.10.2018 ISSUED BY PROVINCIAL POLICE  
OFFICER KHYBER PAKHTUNKHWA.

Memo:  
Kindly refer to the Provincial Police officer Khyber Pakhtunkhwa Notification  
No.747/SE-I dated 23.10.2018 and subsequent correspondence regarding transfer/withdrawal of  
DSP Legal (AD Legal-I) namely Mir Faraz Khan from ACE to District Police Swat, it is submitted  
that the officer has not completed normal tenure i.e 03 years in this establishment and he is  
competent and well experience with the legal work of ACE. Furthermore, there is acute shortage  
of Police officers in ACE and no substitute has been posted to ACE in place of Mir Faraz Khan  
DSP legal.

Keeping in view the above, the officer can not be relieved, hence it is requested that  
IGP, Khyber Pakhtunkhwa may kindly be approached for withdrawal/cancellation of transfer  
notification No.947/SE-I dated 23.10.2018 in best interest of this establishment.

Copy of Notification No.947/SE-I enclosed for perusal please.

  
Director  
Anti-Corruption Establishment  
Khyber Pakhtunkhwa,  
Peshawar.



0/c  
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Annex-3 F

MS

To,

Mr. Salahu din Mahsood,  
worthy IGP KP Peshawar

Subject: Request for cancellation of transfer order#947dated 23-10-2108 on merit and humanitarian grounds .

Respected sir,

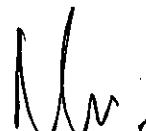
I am permanent resident of district Bannu and serving as DSP legal ACE PESHAWAR since 2017 .Without completion of normal deputation period ie 03 year in ACE Peshawar,I was surprisingly transfered to district Swat while my colleagues officers serving in ACE, special branch and Peshawar for more than 10 years, are never transferred. Establishment staff E-1 CPO misleading the high up about proper transfer criteria on merits and favoured the officers serving at one place for more than 05 years. I with all accommodation difficulties shifted my family to Peshawar and now unable to shift other places due to various problems except home district. I have qualified junior Command course in year 2017. Like other colleagues officers, being senior,may deserve right to be surrendered the duties of SP in southern districts or headquarters.

Two DSPs legal namely Raza Muhd and Kamal Hussain are serving in Police operational staff since long may be given to Swat Malakand as DSP legal in order to fulfil the shortage of legal officers in region.

In view of the above my humble submissions and fact,it is prayed that my transfer order to swat may kindly be cancelled on merit as well as on humanitarian grounds.

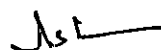
I shall be very thankful to you for this kindness.

Your obedient,

  
Mirfaraz khan DSP  
ACE Peshawar  
05/11-2018



Attested True copy



**OFFICE OF THE DISTRICT EDUCATION OFFICER (FEMALE) PESHAWAR**

**OFFICE ORDER:**

The competent authority is pleased to transfer MSt. Tayyaba Khattak SST (G) Govt Girls Middle School Surizai Bala Peshawar to GGMS Malkan Dher Peshawar against the vacant post of SST on her own pay and BPS in the interest of public service with immediate effect.

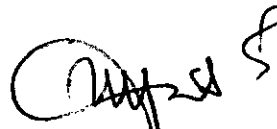
Note: - Charge report should be submitted to all concerned.  
No TA/DA etc is allowed.

(ULFAT BEGUM)  
DISTRICT EDUCATION OFFICER  
(FEMALE) PESHAWAR.

Endst: No. 6589-94G. Transfer Dated 27 / 11 / 2017.

Copy of the above is forwarded to the:-

1. Accountant General Khyber Pakhtun Khwa Peshawar.
2. Director (E&SE) Khyber Pakhtunkhwa Peshawar
3. Head Mistresses/Principals concerned.
4. Officials concerned.
5. Cashier local office.



DISTRICT EDUCATION OFFICER  
(FEMALE) PESHAWAR



**PAKISTAN** National Identity Card  
ISLAMIC REPUBLIC OF PAKISTAN


Name: Tayyaba Khattak


Muslim Name: Mir Faraz Khan

Gender: F Country of Stay: Pakistan

Identity Number: 14202-2110596-8 Date of Birth: 22.10.1976

Date of Issue: 04.04.2017 Date of Expiry: 04.04.2027

Holder's Signature: 



Attested True Copy  
JSL

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# Annex - H

(19)



GOVERNMENT OF KHYBER PAKHTUNKHWA  
HOME & TRIBAL AFFAIRS DEPARTMENT

No. SO (Police-II)/HD/8-2/018/Mir Faraz Khan  
Dated Peshawar the 04.12.2018

To,

The Provincial Police Officer,  
Khyber Pakhtunkhwa.

**Subject: - REQUEST FOR WITHDRAWAL / CANCELLATION OF NOTIFICATION NO. 947/SE-I DATED 23.10.2018 ISSUED BY PROVINCIAL POLICE OFFICER, KHYBER PAKHTUNKHWA.**

Dear Sir,

I am directed to refer to Establishment Department Letter No.SO (E1)/E&AD/2-4/2018 and your office notification No. 947/SE-I dated 23.10.2018 whereby Mir Faraz Khan DSP Legal, who was on deputation to Anti-Corruption Establishment for a period of 03 years which will expire on 01.04.2019. As such the transfer of the Officer before completion of his deputation period is premature. Moreover, the officer was on deputation with ACE and under the rules request for repatriation of officer had to be made to the Establishment Department, Khyber Pakhtunkhwa as required under the deputation policy duly notified by the Government of KP. The services of officer are required to Anti-Corruption Establishment due to an acute shortage of officer in the said Establishment

In addition to the above, the wife of the officer is serving as headmistress in Government Middle School Malakander Peshawar and under posting/transfer policy notified by the Establishment Department, he is entitled to continue his services in the present place of posting. The request of Director ACE is quite genuine and covered under deputation policy. The officer can be retained till completion of initial deputation period extendable by other 02 years.

In light of the above, it is requested that notification No. 947/SE-I dated 23.10.2018 may be withdrawn as requested by Director Anti-Corruption Establishment.

Yours Truly,

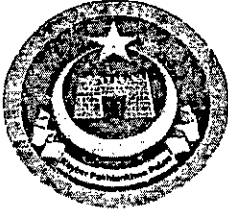
Encls as Above

*Attested True Copy  
JSL*

*[Signature]*  
Section Officer (Police-II)  
Ph No. 091-9210503.

Copy forwarded to:-

- 1) The Section Officer (E1), Establishment Department w/r to his letter quoted above
- 2) PA to Special Secretary Home & TA's Department.



**Annex-I**

OFFICE OF THE  
INSPECTOR GENERAL OF POLICE  
KHYBER PAKHTUNKHWA  
CENTRAL POLICE OFFICE, PESHAWAR  
P. No. 091.9212326, Fax: 091-9210927

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21

No. 1047 /SE-I

Dated Peshawar /5 Nov, 2018.

To : The Director Anti-Corruption,  
Establishment, Khyber Pakhtunkhwa,  
Peshawar.

Subject: **REQUEST FOR CANCELLATION OF TRANSFER ORDER OF DSP LEGAL**  
Memo:

Please refer to your office letter No.17907/ACE, dated 05.11.2018 on the subject cited above.

The request regarding cancellation transfer order of Mir Faraz Khan DSP Legal from ACE Khyber Pakhtunkhwa to DSP Legal Swat has been examined and filed by the Competent Authority.

11177  
19/11/18

(SADIQ BALOCH) PSP  
AIG Establishment,  
For Inspector General of Police,  
Khyber Pakhtunkhwa,  
Peshawar

**Enclst: No. & date even.**

Copy forwarded to the:-

1. DSP PAS with reference to his letter No.6693/PAS dated, 09.11.2018.
2. Central Registry CPO Peshawar.

AD/Adm:

JSL  
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Attested True Copy  
JSL

# Annex-1

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## IN THE PESHAWAR HIGH COURT PESHAWAR

WRIT PETITION No. \_\_\_\_/2018

Mir Faraz Khan S/o Noor Wali Khan

Assistant Director Legal (DSP Legal)

Anti Corruption Establishment, Peshawar.....Petitioner.

### Versus

1. The Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat, Peshawar.
2. The Secretary Govt: of Khyber Pakhtunkhwa Estt: & Admn: Deptt:, Peshawar.
3. The Provincial Police Officer Khyber Pakhtunkhwa, Peshawar.
4. The AIG Establishment CPO, Peshawar.
5. The Superintendent Establishment-1 CPO, Peshawar
6. The Director Anti Corruption Establishment Khyber Pakhtunkhwa, Peshawar.
7. The Regional Police Officer Malakand at Saidu Sharif Swat.
8. The District Police Officer, Swat.
9. The Accountant General Khyber Pakhtunkhwa, Peshawar.
10. Kamal Hussain DSP Legal, Executive Operation Staff, Peshawar.
11. Raza Muhammad DSP Legal Executive Operation Staff, Peshawar.....Respondents.

WRIT PETITION UNDER ARTICLE 199 OF THE  
CONSTITUTION OF THE ISLAMIC REPUBLIC  
OF PAKISTAN, 1973.

Attested True Copy  
JSL

**Respectfully Sheweth,**

The concise facts giving rise to the present writ petition are as under:-

1. That petitioner was enrolled as PSI in Police Force, Khyber Pakhtunkhwa in the year, 1993 and presently serving as Assistant Director Legal (DSP Legal) Anti Corruption Establishment, Peshawar on deputation basis.
2. That primarily petitioner was transfer and posted as Inspector Legal Anti Corruption Establishment, Khyber Pakhtunkhwa on Deputation basis vide Order dated 01-04-2016 (Annexure-A), but later on he was repatriated to his parent department vide order dated 05-10-2016 (Annexure-B).
3. That vide letter No.11241 dated 25-10-2016 (Annexure-C) the Director Anti Corruption Establishment, Khyber Pakhtunkhwa (respondent No.6) requested the Provincial Police Officer, Khyber Pakhtunkhwa (respondent No.3) that there is urgent need of DSP Legal in the Anti Corruption Establishment, therefore, the services of the petitioner may kindly be entrusted/surrendered to the ACE on deputation basis.
4. That the services of the petitioner were again entrusted/surrendered to the Anti Corruption Establishment vide Notification No. 1032/SE-1 dated 30.9.2016 and in compliance of the order petitioner assumed his charge on 16.11.2016 (Annexure-D).

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5. That before completion of normal period of deputation the Provincial Police Officer (respondent No.3) without consulting the borrowing department (respondent No.6) unilaterally issued the impugned repatriation/transfer Notification No. 947 Dated Peshawar the 23-11-2018 (Annexure-E) of the petitioner and posted him as DSP Legal Swat with immediate effect.
6. That it is also pertinent to bring into the notice of this Hon'ble' Court that respondent No.2 has issued the impugned transfer order for which he was not competent under the law. Petitioner was on the strength of Anti Corruption Establishment and was not under his immediate administrative control. Respondent No.2 was required to issue the repatriation order in consultation with respondent No. 6 (Director Anti Corruption Establishment) and then to transfer him to any place in public interest. The respondent No.3 (PPO) issued the impugned transfer order directly in violation of law, rules and policy.
7. That the Director Anti Corruption Establishment (respondent No.6) vide letter No.17907/ACE, Dated 05-11-2018 (Annexure-F) requested the Provincial Police Officer (respondent No.3) that since only 03 DSP Legal are available in ACE for the whole province, while two DSP Legal are under training/course in Pakistan Provincial Services Academy, Peshawar and the work load of the said under course DSP's have been surrendered to the petitioner and more over the normal tenure of the petitioner's deputation has also not been completed therefore, under the circumstance the services of the petitioner cannot be surrendered to the Police Department and he cannot be relieved.

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- 8. That the Director Anti Corruption Establishment (respondent No.6) vide letter No.19060/ACE, Dated 20-11-2018 (Annexure-G) also requested the Secretary Govt: of Khyber Pakhtunkhwa Estt: & Admn: Deptt:, Peshawar that since there is acute shortage of Police Officer in ACE and no substitute has been posted to ACE in place of petitioner and more over the normal period of the Deputationists/petitioner has not been completed, therefore, the Provincial Police Officer (respondent No.3) may kindly be approached for withdrawal/cancellation of the impugned transfer order.
- 9. That the petitioner himself being aggrieved of the impugned transfer Notification No. 947 Dated Peshawar the 23-11-2018 submitted his departmental representation (Annexure-H) before the respondent No.3 and also made complaint through SMS vide His Complaint Cell#0315-9007777 and brought the agonies of the petitioner into his notice.
- 10. That petitioner has been permanently settled in Peshawar. The Children of the petitioner are school going and his wife has been serving as Headmistress in Govt: Middle Malakander (Annexure-I), Peshawar, therefore, under Wed Lock Policy petitioner could not transferred to Swat.
- 11. That the respondent No.10 and .11 (DSP Legal) has been serving in Executive Operation Staff since very long and they were not transferred due to having political backing and the petitioner was made escape goat. Respondent No.10 and 11 could be easily accommodated as DSP Legal at Swat and their services could be easily surrendered to respondent No. 7 & 8 (Regional Police Officer Malakand at Saidu Sharif Swat & the

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True Copy  
JSL

District Police Officer, Swat) being under the immediate control of respondent No.3.

12. That it is also pertinent to mention that one Sohail Afzal (DSP legal) has been serving in Anti Corruption Establishment on deputation basis for the last twenty years and has not yet been absorbed and is still the permanent employee of the police force Khyber Pakhtunkhwa but respondent No.3 selected transfer/ repatriation of the petitioner who has not even completed his 1<sup>st</sup> 2 years of deputation.
13. That vides Order No.1047/SE-1 Dated Peshawar 15 Nov, 2018 (Annexure-J) the legitimate request of the petitioner and respondent No.6 has been turned down by respondent No.3 without any reasonable cause and justification.
14. Hence petitioner being aggrieved the impugned transfer Notification No. 947 Dated Peshawar the 23-11-2018 and having no adequate and efficacious remedy are constrained to file this petition on the following amongst other grounds:

**Grounds:-**

- A. That the respondent has not treated the petitioner in accordance with law, rules and policy and acted in violation of Article 4 of the Constitution of Pakistan, 1973. The normal tenure of deputationists is five years, but the petitioner has been repatriated before the completion of two years in violation of the Deputation Policy and that without any sort of urgency and without consulting the borrowing department.

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- B. That the borrowing department has shown its unwillingness to the impugned transfer order and requested for the withdrawal/cancellation of the impugned order and almost refuse to surrender the services of the petitioner.
  
- C. That it is also pertinent to bring into the notice of this Hon'ble' Court that respondent No.2 has issued the impugned transfer order for which he was not competent under the law. Petitioner was on the strength of Anti Corruption Establishment and was not under his immediate administrative control. Respondent No.2 was required to issue the repatriation order in consultation with respondent No. 6 (Director Anti Corruption Establishment) and then to transfer him to any place in public interest. The respondent No.3 (PPO) issued the impugned transfer order directly in violation of law, rules and policy. The impugned order is void ab initio.
  
- D. That petitioner has been permanently settled in Peshawar. The Children of the petitioner are school going and his wife has been serving as Headmistress in Govt: Middle Malakander, Peshawar, therefore, under Wed Lock Policy petitioner could not transferred to Swat.
  
- E. That the petitioner has highly been discriminated; respondents No.10 and 11 (DSP Legal) has been serving in Executive Operation Staff since very long and they were not transferred due to having political backing and the petitioner was made escape goat. Respondent No.10 and 11 could be easily accommodated as DSP Legal at Swat and their services could be easily surrendered to respondent No. 7 & 8 (Regional Police Officer Malakand at Saidu Sharif Swat & the District Police Officer, Swat) but they were not transferred due to political backing and petitioner was repatriated inspite of the

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True copy  
JSL



fact that he was on the strength of ACE on deputation basis. On this score alone the impugned order is liable to be set aside.

- F. That the petitioner would like the permission of this Hon'ble' Court to advance more grounds at the time of hearing.

It is therefore, humbly prayed that on acceptance of this petition, this Hon'ble Court may be pleased to:-

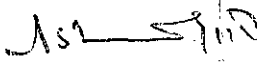
- (i) **Declare** the impugned transfer Notification No. 947 Dated Peshawar the 23-11-2018 is unlawful and without lawful authority and set aside the same.
- (ii) **Direct** the respondents to allow the petitioner to complete his normal tenure as deputationists at ACE, Khyber Pakhtunkhwa, Peshawar.
- (iii) Any other relief as deemed appropriate in the circumstances of case not specifically asked for may also be granted to petitioner.

**Interim Relief**

By way of interim relief this Hon'ble' Court may graciously be pleased to suspend the operation of impugned transfer Notification No. 947 Dated Peshawar the 23-11-2018 till the final disposal of the instant writ petition.

Petitioner

Through

  
Ashraf Ali Khattak  
Advocate,  
High Court of Pakistan

Dated: \_\_\_/\_\_\_/2018

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IN THE PESHAWAR HIGH COURT PESHAWAR

W.P. No. \_\_\_\_/2018

Mir Faraz Khan S/o Noor Wali Khan Assistant Director Legal (DSP Legal) Anti Corruption Establishment, Peshawar .....Petitioner

Versus

The Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat, Peshawar .....Respondents

CERTIFICATE

Certified on instruction that petitioner has not previously moved this Hon'ble Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 regarding present matter.

*Ashraf Ali Khattak*

Ashraf Ali Khattak  
Advocate, Peshawar.

List of Books

1. The Constitution of the Islamic Republic of Pakistan, 1973.
2. Services Law.

NOTE

1. Three spare copies of the Writ Petition are enclosed in a separate file cover.
2. Memo of addresses is also attached.

*Attested True Copy*

*AK*

*Ashraf Ali Khattak*

Ashraf Ali Khattak  
Advocate, Peshawar

IN THE PESHAWAR HIGH COURT PESHAWAR

W.P. No. \_\_\_\_/2018

Mir Faraz Khan S/o Noor Wali Khan Assistant Director Legal (DSP Legal) Anti Corruption Establishment, Peshawar .....Petitioner

Versus

The Government of Khyber Pakhtunkhwa through Chief Secretary Civil Secretariat, Peshawar .....Respondents

AFFIDAVIT

I Mir Faraz Khan S/o Noor Wali Khan Assistant Director Legal (DSP) Anti Corruption Establishment do hereby solemnly affirm and declare on oath that the contents of this writ petition are true and correct to the best of my knowledge, and nothing has been concealed from this Hon'ble Court.

*[Signature]*  
Deponent

Identified by


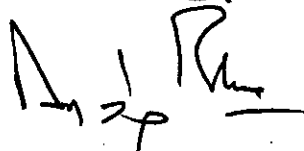
*[Signature]*  
Ashraf Ali Khattak  
Advocate, Peshawar

CNIC # 11101-1425161-3  
0336-5761727

Attested True Copy  
*[Signature]*

No: 12868
Certified that the deponent has verified on solemnly affirmation made and attested this 27 <sup>th</sup> day of Nov 18 at Mir Faraz Khan's place who was identified by Ashraf Ali Khattak who is personally known to me: <i>[Signature]</i> Oath Commissioner Peshawar High Court, Peshawar

**PESHAWAR HIGH COURT, PESHAWAR**  
**FORM OF ORDER SHEET**

Date of Order or Proceedings	Order/Proceedings with Signature of Judge.
07.12.2018	<p><b>W.P No.5972-P/2018</b></p> <p><b>Present:</b></p> <p>Mr. Ashraf Ali Khattak, Advocate, for the petitioner.</p> <p>****</p> <p><b>MUHAMMAD AYUB KHAN, J.</b> The petitioner, through the instant petition, filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, has prayed for issuance of an appropriate writ declaring the transfer notification No. 947 dated 23.11.2018 as unlawful and without lawful authority with request to sit aside it.</p> <p>2. As per ibid notification, the petitioner has been transferred as DSP (Legal), Swat.</p> <p>3. Since transfer falls within the terms &amp; conditions of service under Khyber Pakhunkhwa, Civil Servants Act, 1973. Therefore, the petitioner, being a civil servant, cannot seek redressal of his grievance from this Court being barred under Article 212 of the Constitution of Islamic Republic of Pakistan, 1973.</p> <p>4. Resultantly, the instant petition, being not maintainable, stands dismissed, in limine.</p> <p>Announced: 07.12.2018</p> <p style="text-align: center;">   <b>JUDGE</b> </p> <p style="text-align: center;">   <b>JUDGE</b> </p>

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Annexure - K 121

GOVERNMENT OF N.-W. F. PROVINCE.

SERVICES AND GENERAL

ADMINISTRATION DEPARTMENT

(Regulation Wing)

No. SOR-I (S&GAD) I--14/82.

Dated Peshawar, the 23rd November, 1985.

31

1. All Administrative Secretaries to Government of N.-W. F. P.
2. All Heads of Attached Departments in N.-W. F. P.
3. All Heads of Autonomous/Semi-Autonomous Bodies in N.-W. F. P.
4. The Registrar, Peshawar High Court, Peshawar.
5. The Secretary to Governor, N.-W. F. P.
6. The Chairman, N.-W. F. P. Public Service Commission.
7. The Chairman, Service Tribunal, N.-W. F. P., Peshawar.
8. The Secretary, Board of Revenue, N.-W. F. P.

Subject.--DEPUTATION OF CIVIL SERVANTS TO FOREIGN SERVICE IN PAKISTAN.

Sir,

I am directed to say that in the interest of efficient administration, it was provided in the Finance Department's circular letter No. SO (SR-11)FD/1-123/73, dated 5th February, 1978 that initial period of deputation of a civil servant deputed to Autonomous, Semi-Autonomous or Local Bodies in North-West Frontier Province (Foreign Service in Pakistan) should not ordinarily exceed three years. Its extension beyond the period of three years by not more than two years is to be decided by the Finance Department in advance on the merits of each case. In terms of para 2 of the Finance Department's circular letter No. FD. SO (SR-1V) 7-1/84, dated 22nd April, 1984, a civil servant can, under no circumstances, remain on deputation beyond specified period i. e., five years. Before the expiry of this period, the deputationist is required either to opt for reversion to his parent Department or for absorption in the borrowing Organization.

2. In view of the genuine difficulties faced by some of the departments, it has been decided that:--

- (a) a civil servant may be allowed to continue to serve on deputation with the mutual agreement of the lending and borrowing department initially for a period of three years extendable by not more than two years in consultation with the Finance Department.
- (b) Repatriation of a deputationist to his parent Department, before the expiry of prescribed period of deputation should be with the mutual consent of the lending and borrowing department.
- (c) In case the borrowing Organization considers the services of the deputationist as indispensable, it may with the consent of the deputationist consider his absorption in their Organization in accordance with the prescribed procedure well before the expiry of his period of deputation;

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- (d) Before the deputation period of 3/5 years of a civil servant expires, the borrowing Organization/Department may call for a panel of suitable names of civil servants with the requisite qualifications, pay scales and experience prescribed for the post in that Organization from the lending or any other Department if considered appropriate. Where a large number of persons may be on deputation with an Autonomous/Semi-Autonomous Body from one department, then in such cases, in order to avoid wholesale reversions, it would be advisable if the substitutes are selected/taken from that very department;
- (e) Every effort should be made to repatriate deputationists within three/five years. In cases, however, where special circumstances exist, in which the lending as well as borrowing authorities mutually agree and consider the extension in the deputation period of a civil servant absolutely essential and in the public interest, the case may be referred to S&GAD well before the expiry of the prescribed maximum period for the grant of extension;
- (f) The Departments which have a large number of their officers on deputation to other Departments/Autonomous/Semi-Autonomous Bodies may please immediately initiate planned efforts for absorbing/repatriating their deputationists to their own cadres as soon as vacancies occur in their parent Departments. Promotions may not be proposed to the Provincial Selection Board against the posts which are likely to fall vacant in future till such time as the deputationists have either been absorbed in the Organization concerned or in the lending department.

3. This Department's circular letter of even number, dated 7th April, 1985, may be deemed to have been modified to the above extent accordingly.

Your Obedient Servant.

ZARIN DAD KHATTAK,  
Deputy Secretary (Regulation).

Endst. No. SOR-I (S&GAD) 1-14/82, Dated Peshawar, the 23rd November, 1985.

Copy forwarded to :-

1. Additional Secretary, S&GAD.
2. All Deputy Secretaries in S&GAD.
3. All Section Officers in S&GAD.
4. Private Secretary to Chief Secretary, N.-W. F. P.
5. Private Secretary to Secretary, S&GAD.

ATA MUHAMMAD,  
Section Officer, (Reg-I).

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## بعدالت

حیدرکٹون خوا سروس ٹراپو بیٹل  
پشاور

میر فراز خان ڈی ایس پی (لیٹل)

اپیلانٹ

2 منجانب

بنام

مورخہ

بنام

حکومت حیدرکٹون خوا ایڈریس

مقدمہ

چیف سیکریٹری وغیرہ

دعویٰ

جرم

### باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ  
آن مقام پشاور کیلئے اشرف علی خٹک ایڈووکیٹ  
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 ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور  
بصورت ڈگری کرنے اجراء اور وصولی چیک دروپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق  
زر اس پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی  
اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار 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 جہد مذکورہ با اختیارات حاصل ہوں گے  
اور اس کا ساختہ پرداخت منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ 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 وکالت نامہ لکھ دیا کہ سندر ہے۔

2018

12 ماہ دسمبر

المرقوم

Attested & Accepted

12/12/2018

Ashraf Ali Khattak Advocate

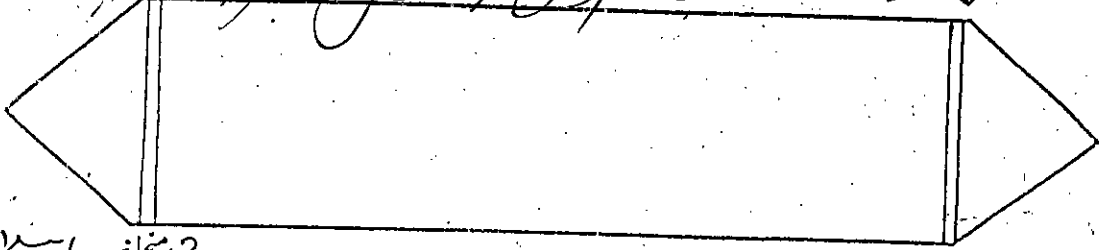
العبد العبد

کے لئے منظور ہے۔

پشاور مقام



# بعدالت سے سروس پر سونل سپر جٹو کی واپس



22 جناب ایس ڈی

میرزا خان بنام اورنگزیب سپر جٹو کی واپس در

DSP Legal  
Anti-Corruption  
Peshawar

1477

مورخہ  
مقدمہ  
دعویٰ  
جرم

## باعث تحریر آنکھ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ

آن مقام سپر جٹو کیلئے مستحق صحت

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز

وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثتہ فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور صولی چیک و روپیہ 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 برادگی 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 کارروائی 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 با اختیارات حاصل ہوں گے اور اس کا ساختہ

پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ دہر جائے التوائے مقدمہ کے سبب ہوگا۔

کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب باہر ہوں گے کہ پیروی

مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ مندر ہے۔

المرقوم 12-12-2018

ماہ 2018

بمقام سپر جٹو کے لئے منظور ہے۔

**"B"**

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

No.

Appeal No. 1477 of 2018.

M. Mir Fawaz Khan Appellant/Petitioner

Versus

Govt of KP, Peshawar Respondent

Respondent No. 1

Notice to:

Govt of KP, Peshawar Chief Secretary  
Civil Secty Peshawar

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on 10-1-2019 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No. .... dated .....~~

Given under my hand and the seal of this Court, at Peshawar this 10/1/2019

Day of Jan 2019

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

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

**"B"**

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

No.

Appeal No. 1477 of 20 18

Mrs. Mir Farooq Khan Appellant/Petitioner

Versus

Secretary, Govt. of K.P.K. Eastern Division Respondent

Respondent No. 2

Notice to:

Secretary Govt. of K.P.K. Eastern Division  
Deptt. Peshawar

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on 10-1-2019 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No. .... dated .....~~

Given under my hand and the seal of this Court, at Peshawar this 5th .....

Day of Jan, ..... 20 18.

Private Secretary to  
Secretary Establishment

Said  
9-1-19

Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

**"B"**

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

No.

Appeal No. 1477 of 20/8

Mr. Mir Feroz Khan Appellant/Petitioner

Versus

Secy of K.P.S. & Chief Secretary Respondent

Respondent No. 3

Notice to:

Provincial Police Officer  
K.P.S. Peshawar

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on 10-1-2019 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No. .... dated .....~~

Given under my hand and the seal of this Court, at Peshawar this 10th .....

Day of Jan 20/9,

*[Handwritten signature]*  
10/1/19

*[Handwritten signature]*  
Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

**"B"**

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

No.

Appeal No. 1477 of 2019

Mr. Mir Fana Khan Appellant/Petitioner

Versus

Secy of S.P.H. & Co. Secy, Chief Secretary, F.C.F. Respondent  
Respondent No. 1

Notice to:

Director, Anti Corruption Establishment  
KPK Peshawar

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on 10/07/19 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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Copy of appeal is attached. Copy of appeal has already been sent to you vide this

office Notice No. \_\_\_\_\_ dated \_\_\_\_\_

Given under my hand and the seal of this Court, at Peshawar this 10/07/19

Day of July 2019

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

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
2. Always quote Case No. While making any correspondence.

No.178

8-1-2019  
For Insurance Notices see reverse.  
Stamps affixed except in case of  
uninsured letters of not more than  
the initial weight prescribed in the  
Post Office Guide or on which no  
acknowledgement is due.

Rs. Ps.

Received a registered\*  
addressed to

Director

Date-Stamp

Initials of Receiving Officer

\*Write here "letter", "postcard", "packet", or "parcel" with the value insured before it is placed in the post.

Insured for Rs. (in figures)

1000000

(in words)

Insurance fee Rs.

1000000

Weight

Kilo

ps. (in words)

Grams

Name and  
address  
of sender

Postman

If insured.

**"B"**

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

No.

Appeal No. 1477 of 20/8.

Mr. Mir Fazel Khan Appellant/Petitioner

Versus

Secy of KPK through Chief Secretary Respondent

Respondent No. 5

Notice to:

Secretary to Secy of KPK Home Dept  
 Tribal Affairs Dept. Peshawar

WHEREAS an appeal/petition under the provision of the North-West Frontier Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on 10-1-2019 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this~~

office Notice No. \_\_\_\_\_ dated \_\_\_\_\_

Given under my hand and the seal of this Court, at Peshawar this 27

Day of Jan 20/9,

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

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
 2. Always quote Case No. While making any correspondence.

A

BEFORE THE HONORABLE SERVICE TRIBUNAL, KHYBER  
PAKHTUNKHWA PESHAWAR

Service Appeal No.1477 /2018

Mir Faraz DSP Legal.....(Appellant)

Versus

Govt of Khyber Pakhtunkhwa & others.....(Respondents)

**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS ARE IS UNDER**

**PRELIMINARY OBJECTIONS:-**

- a) The appeal has not been based on facts.
- b) The appeal is not maintainable in the present form.
- c) The appeal is bad for mis-joinder and non-joinder of necessary parties.
- d) The appellant is stopped to file the appeal.
- e) The appeal is barred by law and limitation.
- f) The appellant has not come to the Honorable Tribunal with clean hands.

**FACTS:-**

1. Correct to the extent that the appellant was enrolled as PSI in Police Force Khyber Pakhtunkhwa in the year 1993. The remaining portion of the Para is incorrect because presently he is serving as Deputy Superintendent of Police Legal Swat.
2. Pertain to record.
3. Pertains to record.
4. Incorrect. Prior to the issuance of transfer order, consultation was made by the authority with borrowing department and orders were issued after obtaining the consent of borrowing authority. Moreover as per section.13 sub-section 8 Police Officer is liable for posting to any branch, division, Bureau or anywhere in or outside the Police (Annexure "A").
5. Incorrect. The appellant is the permanent employee of Police Department, his services were surrendered to ACE on deputation and he was transferred back to Police Department after consultation with borrowing department on obtaining the consent from borrowing authority. The respondent No. 03 is the Competent Authority under the law and rules. The order was issued in accordance with law and rules.
6. Correct to the extent that letter mentioned herein was moved by the respondent No. 04, the same was examined by the authority. Infact the transfer order of the appellant was issued by the authority after consultation and the consent was obtained from borrowing authority. Moreover the letter was examined, filed and conveyed to Director ACE vide No. 20659 dated 12.12.2018 (Annexure "B").
7. As stated in Para 6 above.



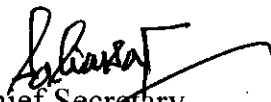
8. Pertains to record.
9. The appellant is a provincial employee, and supposed to be posted anywhere in the province in accordance with section.13 sub section 8 of Police Act 2017 and in the interest of public as per requirement of the department.
10. Incorrect. The posting and transfer of the employee of Police Department are being made strictly in accordance with law and rules and in the best interest of public as well as department.
11. The transfer order of the applicant was issued after consultation and obtaining the consent of borrowing authority in accordance with law and rules and the best interest of Public.
12. Incorrect. The transfer order of the appellant was issued in accordance with law and rules, after taking consent of the borrowing authority. The request of appellant and respondent No. 04 was properly examined and filed by the authority, in the best public interest as well as department.
13. Pertains to record, however the appeal of the appellant is not maintainable in the present form.
14. The appellant has not come to this Tribunal with clean hands nor he has got any locus standi

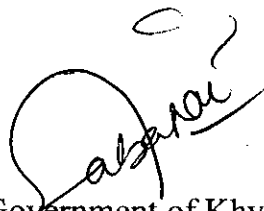
**GROUNDS:-**


- A. Incorrect and misleading. The order was issued by authority after consultation and obtaining the consent of borrowing department in accordance with law and rule and in the best interest of Public as well as department.
- B. Incorrect. Before issuance of transfer order, proper consultation was made by the authority with borrowing department and after obtaining the consent, the order was issued in the best interest of public. Otherwise as per section.13 sub section 8 of Police act 2017 appellant is liable to posted any where.
- C. Incorrect. The appellant is the permanent employee of the police Department. His services were surrender to ACE on Deputation. However transfer order was issued by the Competent authority after consultation with the borrowing department and after obtaining the consent in accordance with law and rules and in the best interest of public as well as department.
- D. Incorrect. The appellant is a provincial Police employee and supposed to be posted anywhere in the province in accordance with law and rules and in the best interest of Public and requirement of the department.

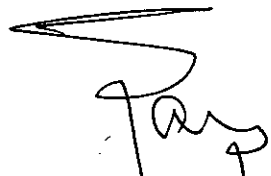
- E. Incorrect and misleading. Infact the transfer /posting in Police Department are being made strictly in accordance with law and rules and in the best public interest as well as requirement of the department.
- F. The respondent may also be allowed to advance additional grounds at the time of arguments.

In view of above, it is humbly prayed that on acceptance of Para-wise comments, the instant Service Appeal may kindly be dismissed being meritless and time barred.

  
Chief Secretary  
Government of Khyber  
Pakhtunkhwa,  
Peshawar.  
(Respondents No.01)

  
Secretary Government of Khyber  
Pakhtunkhwa Estt: & Admn  
Department Peshawar  
(Respondents No.02)

  
Secretary Home & Tribal Affairs  
Khyber Pakhtunkhwa  
Peshawar.  
(Respondents No.05)

  
Provincial Police Officer,  
Khyber Pakhtunkhwa,  
Peshawar.  
(Respondents No.03)

**BEFORE THE HONORABLE SERVICE TRIBUNAL**

**PESHAWAR**

Service Appeal No. 1477/2018

Mir Faraz DSP/ Legal ..... (Appellant)

Versus

Govt: of KPK & others.....(Respondents)

**AFFIDAVIT**

I, Abdur Rehman DSP Legal CPO, Peshawar do hereby solemnly affirm on oath that the contents of accompanying comments on behalf of Respondents are correct to the best my knowledge and belief. Nothing has been concealed from this Honorable Court.

DEPONENT



ABDUR REHMAN,  
DSP/ Legal  
17102-1175519-9

DSP/Legal  
Central Police Office  
Peshawar