

3<sup>rd</sup> August, 2022 Counsel for the petitioner present.

Learned counsel for the petitioner submitted that in view of 2022 SCMR 959 titled "Sindh Irrigation and Drainage Authority versus Government of Sindh and others" the application under Section 12(2) of the CPC was maintainable before the Tribunal

The petitioner has moved this application under Section 12(2) of the CPC for revival of the order dated 02.02.2022 passed in appeal No. 7887/2021. The said appeal was against transfer order dated 02.12.2021 of the petitioner. According to the petitioner, the respondents had fraudulently withdrawn the order dated 02.12.2021 to instigate the petitioner to withdraw the appeal, which he accordingly withdrew but few months thereafter the respondents again with malafide intention transferred the petitioner vide order dated 25.07.2022, hence, this application. Let notices of the application be given to the other side. Original record be also requisitioned. To come up for written reply on 15.09.2022 before S.B.

As to the application for suspension of the order dated 25.07.2022, the same is suspended till the date fixed to the extent of the petitioner and respondent No.5 subject to notice to the other side.




(Kalim Arshad Khan)  
Chairman

# FORM OF ORDER SHEET

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

**12(2) CPC Petition No. 449/2022**

| S.No. | Date of order proceedings | Order or other proceedings with signature of judge or Magistrate   |
|-------|---------------------------|--|
| 1     | 2                         | 3  |
| 1     | 03/08/2022                | <p>The application U/S 12(2) CPC in appeal no. 7887/2021 submitted by Mr. Sajjad Hussain. This application be put up before Division Bench at Peshawar on _____. Original file be requisitioned.</p> <p style="text-align: right;"><br/>REGISTRAR</p> |

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**

**PESHAWAR**

**Khyber Pakhtunkhwa  
Service Tribunal**

12 (2) NO. 449 /2022

Diary No. 909  
Dated 03/08/2022

In

Service Appeal No. 7887/2021

Sajjad Hussain

VS

GOVT. OF KPK & Others

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APPELLANT

Through:

  
FAHEEM ULLAH AKHUNZADA  
ADVOCATE HIGH COURT

Cell No.0315-9046202

Fahimgull541@gmail.com

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

12 (2) NO. 449 /2022

In

Service Appeal No 7887 /2021

**Mr. SAJJAD HUSSAIN, SDA/SENIOR CLERK, PUBLIC HEALTH  
ENGINEERING DEPARTMENT, SUB-DIVISION CHARSAJDA.**

..... APPELLANT

**VERSUS**

- 1- THE GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH  
CHIEF SECRETARY PESHAWAR.**
- 2- THE SECRETARY PUBLIC HEALTH ENGINEERING  
DEPARTMENT, GOVERNMENT OF KHYBER PAKHTUN KHWA,  
PESHAWAR.**
- 3- THE CHIEF ENGINEER, (CENTER) PUBLIC HEALTH  
DEPARTMENT, PESHAWAR.**
- 4- THE EXECUTIVE ENGINEERS, PUBLIC HEALTH ENGINEERING  
DIVISION CHARSAJDA.**
- 5- MR. SHAKIL AHMAD, ACCOUNTS CLERK (OPS), PUBLIC  
HEALTH ENGINEERING DIVISION CHARSAJDA.**

..... RESPONDENTS

**PETITION U/S 12 (2) CPC FOR SETTING ASIDE ORDER DATED 02-02-2022 IN SERVICE APPEAL NO.7887/2021 BIENG OBTAINED THOROUGH FRAUD AND MISSREPRESENTATION FROM THIS HON'ABLE TRIBUNAL BY THE RESPONDNET DEPARTMENT AS AFTER SUCH FRAUD, THE APPELLANT HAS BEEN TRANSFERRED AGAIN VIDE OFFICE ORDER NO. 32/CE-9/PHE, DATED: 25-07-2022, ILLIGALLY AND CATEGORICALLY ON THE BASIS OF POLITICAL MOTIVATION OF RESPONDENT NO. 05 WITH ACTIVE CONNIVANCE OF RESPONDENT NO. 3. THE TRANSFER ORDER BEING PASSED ILLIGALALLY, AGAISNT MERIT AND BASED ON POLITICAL MOTIVATION MAY BE SET ASIDE.**

**PRAYER:**

On acceptance of the instant application, the impugned Order dated 02-02-2022 of this Hon'able Tribunal being obtained through fraud and misrepresentation may please be set aside and the office order dated 25-07-2022 being issued after the impugned order of this Hon'ble Tribunal may also be declared as illegal unlawful and without lawful authority. The respondents may be directed to withdraw the above stated Office Order and appellant may not be transfer from his post of Senior Clerk at Sub Division, PHE, Charsadda, till completion of his tenure. Any other remedy which this August Tribunal deems fit, may also be granted in favor of the appellant.

**RESPECTFULLY SHEWETH****ON FACTS:****Brief facts giving rise to the present appeal are as under:-**

1. That the appellant is the law abiding, peaceful citizen of Pakistan and living with his family within the local jurisdiction of this Hon'able Tribunal.
2. That the appellant is serving as SDA/Senior Clerk , PHE, SUB-Division, Charsadda, under the administrative control of Chief Engineer, Public Health Engineering [Center], Khyber Pakhtunkhwa, Peshawar. He has been performing unblemished and satisfactory service in the department and having no stigma or complaint during entire service.
3. That earlier the appellant was transferred from PHE Sub Division Swabi to Mardan Division and posted as Accounts Clerk against vacant post in PHE Division Mardan, wherein the appellant assumed charged in compliance of the order No. 11//E-9/PHE dated 19/02/2021 issued by the Chief Engineer [Center] Khyber Pakhtunkhwa Peshawar.

4. That after less than one month of tenure period the appellant was transferred from the post of Accounts Clerk, PHE Division, Mardan to PHE Division, Charsadda, and was posted as SDA in the PHE Sub Division, Tangi by the Chief Engineer [Center], Khyber Pakhtunkhwa, Peshawar vide Order No. 6/E-9/PHE dated 11/03/202, but after [03] days was transferred from PHE Sub Division, Tangi and posted in PHE Division, Charsadda vide office order No. 05/E-9 d/PHE dated 15/03/2021 issued by Chief Engineer [Center] PHE Peshawar, which order also complied by the appellant .
5. That after 8<sup>th</sup> months period of tenure the appellant was transferred again from PHE Division Charsadda and posted in the office of Chief Engineer (East) PHED on 02/12/2021 vide office order No. 05/CE-9/PHE in violation of tenure and posting transfer policy / APT Rules 1989 Government of Khyber Pakhtunkhwa.
6. That against no action on the departmental appeal of the appellant within the statutory period by the respondent department, the appellant filed service appeal before this Honable Tribunal along with application for suspension of the impugned order.
7. That the Hon'able Tribunal was pleased to suspend the impugned order dated 02-12-2021 and accordingly directed the respondent to file their respective comments vide order dated 21-12-2021.  
**(Copy of order dated: 21-12-21, is attached as Annex-A)**
8. That the respondent department appeared before the Tribunal and seeks time for submission of their respective comments which was accordingly granted.
9. That after seeking further time on deferent dates of hearing the respondent department produced office order No. 06/CE-9/PHE dated 21-01-2022 wherein the appellant was reposted on his earlier position and on the basis of such order the appellant was asked to withdraw his appeal which was withdrawn by the appellant accordingly vide order dated 02-02-2022.

**(Copy of order dated: 02-02-2022, is attached as Annex-B)**

10. That after obtaining the above stated order from this Hon'ble Tribunal with fraud and misrepresentation, respondent No.03 vide order dated: 25-07-2022, has again transferred the appellant from his position which illegal act of the respondent No. 03 is challenged under the instant application on the following grounds interalia.

**GROUND:**

1. That conduct of the respondent department toward this Ho'able tribunal was not fair throughout the proceeding of the appeal which is against the principal of fair play therefore they be proceeded according to law and further strict departmental action be directed to be taken against the responsible person.
2. That the 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.
3. That it is evident form the record that the appellant has been transferred by the respondent department on the basis of political motivation so many time just to benefit their dear ones and in this regard they adopted all illegal ways and violated each and every rules.
4. That the journey of violations of rules does not limited only to the extent of department but sadly the same continue when the appellant filed appeal before this august Tribunal.
5. That interestingly at the department level the respondents was only dodging the appellant by subjecting him to illegal transfer orders but' when he approached this Hon'able Tribunal, then the department started dodging this Hon'able Tribunal too which fact is evident from the available record on file.
6. That it is pertinent to mention here that during the pendency of the appeal, respondent no. 03 had also issued another office order No. 11/CE-9/PHE dated 13/12/2021 and further transferred the appellant.

7. That after availing time for submission of reply by the respondent no.03, instead of filing of comments, produced office order no. 06/CE-9/PHE dated 21-01-2022 and the appeal was accordingly withdrawn by the appellant as his grievance were redressed.
8. That soon after obtaining order form the Hon'able Tribunal through fraud and misrepresentation, the respondent no. 03 vide office order No.32/CE-9/PHE dated 25-07-2022 again transferred the appellant form his post just to benefit respondent no.05 beside the fact the post and job description of the appellant and respondent no. 03 is not the same but even then they are always after the post of the appellant the reasons best known to respondents no. 03 and 05.
9. That the malafide of the respondent is evident form the fact that the office order No. 32/CE-9/PHE dated 25-07-2022 is promotion order wherein 23 employees were promoted from the post of Junior Clerks (BPS-11) to the post of Senior Clerks (BPS-14) but even then the name of the appellant has malafiedly and fraudulently been added in the list of the promotion just to achieve their motives.

**(Copy of order dated: 25-07-2022, is attached as Annex-C)**

10. That the appellant was transferred so many times just in the year 2021 without any reasons in violation of transfer posting and tenure policy which is also against the law rules and judgment of august Supreme Court of Pakistan enshrine in Anita Turab vs Federation of Pakistan reported as 2031 PLD SC Page 195.
11. That the appellant has not been completed his tenure in Charsadda sub Division and the normal period of posting of a Government Servant at a station, according to Rule 21 of the Rules of Business is three years, which has to be followed in the ordinary circumstances, unless for reasons or exigencies of service a transfer before expiry of the said period becomes necessary thus the said transfer without completion of tenure is against the law and rules, constitution and fundamental rights.

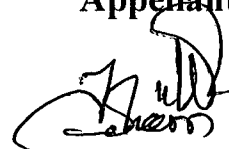


12. That it is evident from the transfer/posting history of the appellant that since inception of his appointment he has been subjected to frequent transfers and was never let to complete his tenure rather he has been treated as shuttlecock throughout his career which act of the respondent department is not only illegal but is a source of frustration for the appellant and his family as well.

*It is, therefore humbly prayed that on acceptance of the instant petition, the order dated 02-02-2022 passed by this Hon'ble Tribunal and office order No. 32/CE-9/PHE, dated; 25-07-2022, may please be set aside.*

Appellant

Through



**Faheem Ullah Akhunzada**  
Advocate High Court  
Peshawar.

LIST OF BOOKS:

1. CONSTITUTION OF PAKISTAN
2. SERVICES LAWS
3. TRASNFER POSTING POLICY
4. ANY OTHER LAWS AS PER NEED.

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

12 (2) NO. \_\_\_\_\_ /2022

In

Service Appeal No. 7887/2021

Sajjad Hussain

VS

GOVT. OF KPK & Others

AFFIDAVIT

I, Faheem Ullah Akhunzada Advocate High Court Peshawar as per instructions of my client, do hereby solemnly affirm and state, that the contents of accompanying Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon' able Tribunal.



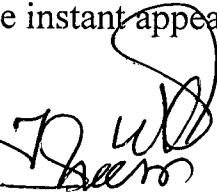
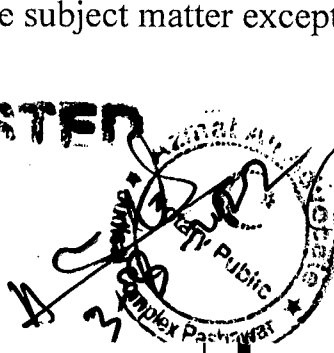
Deponent.

Dated; \_ 01-08/2022.  
BC: 12-3780  
Cell: 0333-9046202

**Certificate:**

It is certified that no other appeal/application has been pending or filed between the same parties and on same subject matter except the instant appeal.

**ATTESTED**



**Deponent**

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

12 (2) NO. \_\_\_\_\_ /2022

**In**

**Service Appeal No. 7887/2021**

**SAJJAD HUSSAIN VS GOVT. OF KPK & OTHERS**

**APPLICATION FOR SUSPENSION OPERATION OF THE  
IMPUGNED OFFICE ORDER NO. 32/CE-9/PHE DATED 25.07.2022  
TILL FINAL DISPOSAL OF THE INSTANT PETITION.**

**RESPECTFULLY SHEWETH:**

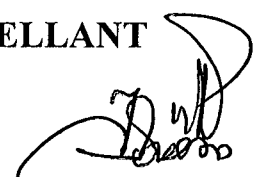
- 1- That the above titled petition u/s 12 (2) CPC is pending before this Hon'able Tribunal, wherein no date of hearing is fixed.
- 2- That appellant filed the above-mentioned application against the impugned office order dated: 25-07-2022, which has been issued after obtaining order dated 02-02-2022 by the respondent department from this Hon'able Tribunal through fraud and misrepresentation.
- 3- That if the impugned order dated 25.07.2022 has not been suspended the appellant will face irreparable loss and will declare the above-mentioned appeal infructuous.
- 4- That all the three ingredients necessary for the stay is in favor of the appellant.
- 5- That the impugned order dated 25-07-2022, had been issued by the respondents in utter disregard of law and prevailing Rules and with malafide intention.

It is therefore, most humbly prayed that on acceptance of this application the operation of the impugned office order No. 32/CE-9/PHE, dated 25.07.2022 may very kindly be suspended till the disposal of the above-mentioned application.

Dated: 02.08-2022

**APPELLANT**

**THROUGH:**

  
**FAHEEM ULLAH AKHUNZADA  
 ADVOCATE HIGH COURT  
 PESHAWA**

21.12.2021

Counsel for the appellant present. Preliminary arguments heard.

The appellant has invoked the jurisdiction of this Tribunal to impugn the transfer/posting order bearing No. 05/CE-9/PHE, dated 02.12.2021, whereby he has been transferred from the post of SDA PHE Sub Division Charsadda to the office of Chief Engineer (East) PHED. Previously, he was transferred vide order dated 19.02.2021 from PHE Division Swabi to PHE Division Mardan and then from there to PHE Division Charsadda vide order dated 11.03.2021. He while under transfer vide order dated 11.03.2021 was further transferred after four days vide order dated 15.03.2021 and was posted in PHE Sub Division Charsadda before his taking over charge in PHE Sub Division, Tangi. It appears that the appellant has suffered by frequent transfers made within a single year. All the orders including the impugned order are shown to have been issued in public interest. What public interest lies in frequent transfers of the appellant is required to be shown by the respondents when the matter is heard during regular hearing. This appeal is admitted for hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 17.01.2022 before S.B.

An application for interim relief seeking suspension of operation of impugned order has been filed alongwith memorandum of appeal. Notice of application be also given to the respondents. The operation of the impugned order dated 02.12.2021 is suspended till date fixed.

Handwritten notes: 23/12/21

Chairman



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A  
FORM ORDER SHEET

SCANNED  
10/12/21

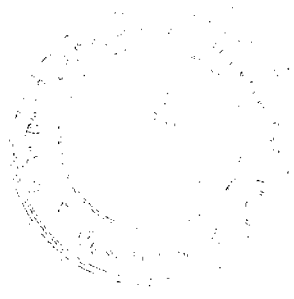
Court of \_\_\_\_\_

Case No.- \_\_\_\_\_ 7887/2021

| S.No. | Date of order proceedings | Order / Proceedings with signature of judge   |
|-------|---------------------------|---|
| 1     | 2                         | 3   |
| 1-    | 20/12/2021                | <p>The appeal of Mr. Sajjad Hussain presented today by Mr. Faheem Ullah Akhuzada 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;"><br/>REGISTRAR</p> |
| 2-    |                           | <p>This case is entrusted to S. Bench at Peshawar for preliminary hearing to be put there on <u>21/12/21</u>.</p> <p style="text-align: right;"><br/>CHAIRMAN</p>  |

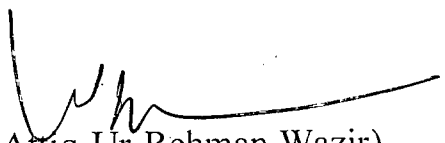
02.02.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl: AG for official respondents present.



Learned counsel for the appellant submitted an application for withdrawal of the instant service appeal wherein he stated that the grievances of the appellant have been redressed departmentally. Application is allowed and the instant service appeal is therefore, dismissed as withdrawn. File be consigned to the record room.

Announced:  
02.02.2022


  
(Atiq-Ur-Rehman Wazir)  
Member(E)

29-7-22




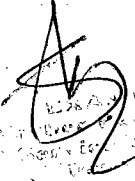
1200  
14/-  
18/-

29-7-22  
29-7-22

1)  Learned counsel for the appellant present. Mr. hammad Adeel Butt, Addl. AG alongwith Mr. Rehman Ali, O and Muhammad Irfan Assistant for official respondents No. to 4 present. Private respondent No. 5 in person present.

Reply/comments on behalf of private respondent No. 5 has been already submitted. Reply/comments on behalf of official respondents No. 1 to 4 are still awaited. Representative of respondent sough time to furnish reply/comments. To come up for reply/comments before the S.B on 02.02.2022. The operation of the impugned order dated 02.12.2021 is suspended till date fixed.

  
(Atiq-Ur-Rehman Wazir)  
Member (E)

  
2022/02/02

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

APPEAL NO. 7887 /2021

8157.  
20-12-2021

Mr. SAJJAD HUSSAIN, SDA/SENIOR CLERK O/O SUB DIVISION  
PUBLIC HEALTH ENGINEERING DEPARTMENT CHARSAJDA.

..... APPELLANT

VERSUS

- 1- THE GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH  
CHIEF SECRETARY PESHAWAR.
- 2- THE SECRETARY PUBLIC HEALTH ENGINEERING  
DEPARTMENT PESHAWAR.
- 3- THE CHIEF ENGINEER, (CENTER) PUBLIC HEALTH  
DEPARTMENT PESHAWAR.
- 4- THE EXECUTIVE ENGINEERS PHE DIVISION CHARSAJDA.
- 5- MR. SHAKIL AHMAD <sup>Sr. Clerk</sup> / O/O CHIEF ENGINEER (EAST) PHE  
DEPARTMENT.

..... RESPONDENTS

20/12/2021

**APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED  
OFFICE ORDER NO.05/CE-9/PHE DATED 02.12.2021  
WHEREBY THE APPELLANT HAS PREMATURELY BEEN  
TRANSFERRED FROM THE OFFICE OF PHE SUB DIVISION  
CHARSAJDA TO CHIEF ENGINEER (EAST) PESHAWAR AND  
AGAINST NO ACTION TAKEN ON THE DEPARTMENTAL  
APPEAL OF THE APPELLANT WITHIN THE STATUTORY  
PERIOD.**





**PRAYER:**

On acceptance of the instant appeal the impugned office order No. 05/CE-9/PHE DATED 02.12.2021 may please be set aside and the same may be declared as illegal unlawful without lawful authority, void ab-initio and in sheer violation of ban imposed by election commission of Pakistan vide Notification No. F-16(1)/2021-LGE-KP dated 04/11/2021 and evidently an outcome of political motivation, therefore respondents may be directed to withdraw the above stated office order and appellant may not be transfer from his post of Senior Clerk at sub division PHE charsadda till the completion of his tenure. Any other remedy which this August Tribunal deems fit that may also be awarded in favor of the appellant.

**RESPECTFULLY SHEWETH****ON FACTS:**

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

1. That the appellant is the law abiding, peaceful citizen of Pakistan and living with his family within the local jurisdiction of this Hon'able Tribunal.  
(Copy of CNIC is attached as annexure .....A)
2. That the appellant is serving as SDA/Senior Clerk under the administrative control of Chief Engineer Public Health Engineering [Center] Khyber Pakhtunkhwa Peshawar. That the appellant has performed unblemished and satisfactory performance in the department and having no stigma or complaint against the appellant during entire service.
3. That earlier the appellant was transferred from PHE Sub Division Swabi to Mardan Division and posted as Accounts Clerk against vacant post in PHE Division Mardan, wherein the appellant

APPROVED  
EXAMINER  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

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assumed charged in compliance of the order No. 11//E-9/PHE dated 19/02/2021 issued by the Chief Engineer [Center] Khyber Pakhtunkhwa Peshawar.

(Copy of order is attached as Annexure.....B)

4. That after less than one month of tenure period the appellant once again was transferred from the post of Accounts Clerk PHE Division Mardan to PHE Division Charsadda and posted as SDA in PHE Sub Division Tangi by the Chief Engineer [Center] Khyber Pakhtunkhwa Peshawar vide Order No. 6/E-9/PHE dated 11/03/202 but after [03] days the appellant once gain transferred was from PHE Sub Divisiion Tangi and posted in PHE Division Charsadda vide office order No. 05/E-9 d/PHE dated 15/03/2021 issued by Chief Engineer [Center] PHE Peshawar, which order also implemented by the appellant .

(Copy of notifications are attached as Annexure – C and D)

5. That after mostly 8<sup>th</sup> months period of tenure the appellant again was transferred from PHE Division Charsadda and posted in the office of Chief Engineer (East) PHED on 02/12/2021 vide office order No. 05/CE-9/PHE in violation of tenure and posting transfer policy / APT Rules 1989 Government of Khyber Pakhtunkhwa.

(Copy of transfer order is attached as Annexure..... E)

6. That the Election Commission of Pakistan vide Notification No. F-16(1)/2021-LGE-KP dated 04/11/2021 issued revised schedule for conduct Local Government Election in First Phase in Khyber Pakhtunkhwa and imposed ban on posting transfer / any kind of misuse of Government office for announcement of developmental projects but in violation of the said revised schedule of ECP the appellant was transferred to influence the result of Local Government Election in the shape of transfer of the appellant (copy of notification is attached as Annexure..... F)

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7. That feeling highly aggrieved from the impugned order dated 02-12-2021, The appellant filed a department appeal to the competent authority i.e the secretary to Government of Khyber Pakhtunkhwa Public Health Engineering Peshawar on dated: 03-12-2021, but till date no heed was paid to the appeal of the appellant.

(Copy of the departmental appeal is attached as annexure.....G)

8. That as the impugned order was issued not only in sheer violation of the posting/transfer policy but also during the ban imposed by the election commission of Pakistan therefore the appellant also made representation to the District Election Officer and District Administration, Charsadda.

(Copies of the appeal are attached as annexure.....H & I)

9. That the appellant having no other efficacious remedy but to file the instant appeal on the following grounds amongst the others.

**Grounds:**

1. That the 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.
2. That the appellant was transferred so many times just in the year 2021 without any reasons in violation of transfer posting and tenure policy which is also against the law rules and judgment of august Supreme Court of Pakistan enshrine in Anita Turab vs Federation of Pakistan reported as 2031 PLD SC Page 195.
3. That Likewise, the impugned order dated 02/12/2021 of the department / Chief Engineer [Center] qua transfer of the appellant being not permissible and the same being whimsical, arbitrary and punitive in nature and therefore, in violation of

EXAMINER  
 Khyber Pakhtunkhwa  
 Service Tribunal

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fundamental rights enshrined in Constitution of 1973 and in contravention of Rules and policy, therefore not tenable in the eyes of law.

4. That the appellant has not been completed his tenure in Charsadda sub Division and the normal period of posting of a Government Servant at a station, according to Rule 21 of the Rules of Business is three years, which has to be followed in the ordinary circumstances, unless for reasons or exigencies of service a transfer before expiry of the said period becomes necessary thus the said transfer without completion of tenure is against the law and rules, constitution and fundamental rights.

5. That the transfer of the appellant is against the Tenure, appointment, promotion and posting/transfer are of utmost importance in the civil service, and the same will rightly be considered and treated as part of the terms and conditions of service of a civil servant. If, however, rules and instructions are deviated from and as a result merit is discouraged on account of favoritism, sifarish or considerations other than merit, it should be evident that civil service will not remain independent or efficient in this regard reliance upon Constitution Petition No. 23/2012. Petition by Ms. Anita Turab vs Government of Pakistan etc.

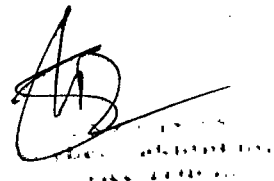
6. That act of the respondents department is based on of Political influence and without tenure policy transfers against the law and judgments of superior courts relied upon the relevant para of judgment of the Supreme Court of Pakistan 1996 SCMR 1185 titled Hameed Akhtar Niazi vs The Secretary Establishment Division, Government of Pakistan relevant part is reproduced here for ease of reference,

"If the Service Tribunal or Supreme Court decides a point of law relating to the terms of Service of a Civil Servant which covers not only the case of civil servant who litigated, but also

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of other civil servants, who may have not taken any legal proceedings, in such a case, the dictates and rule of good governance demand that the benefit of such judgment by Service Tribunal/ Supreme Court be extended to other civil servants, who may not be parties to the litigation instead of compelling them to approach the Service Tribunal or any other forum".

7. That it is evident from the transfer/posting history of the appellant that since inception of his appointment he has been subjected to frequent transfers and was never let to complete his tenure rather he has been treated as shuttlecock throughout his career which act of the respondent department is not only illegal but is a source of frustration for the appellant and his family as well.
8. That it is pertinent to mention that the impugned order dated 02-12-2021 and all the previous transfer/posting orders of the respondents are violative of clause-I and clause-IV of the transfer/posting policy as the throughout his tenure the appellant was never let to complete his tenure.  
(Copy of transfer/posting policy is attached as annexure.....J)
9. That the impugned order dated 02-12-2021 is also against law & prevailing rules as the impugned order is issued during the ban period imposed by the election commission of Pakistan on all posting/transfer owing to local government election with aim to insure transparency.
10. That the impugned order dated 02-12-2021 is not passed in public interest which is a clear violation of judgments of passed by the apex supreme court of Pakistan hence the impugned order dated 02-12-2021 is void ab initio in its nature.



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*It is, therefore humbly prayed that the instant appeal may please be allowed in favour of the appellant against the respondents as prayed for in the heading of the appeal.*

**Appellant**

Through

**FAHEEM ULLAH AKHUNZADA**  
Advocate High Court  
Peshawar.

**LIST OF BOOKS:**

1. CONSTITUTION OF PAKISTAN
2. SERVICES LAWS
3. TRASNFER POSTING POLICY
4. ANY OTHER LAWS AS PER NEED.

**ATTESTED**

**EXAMINER**  
Khyber Pakhtunkhwa  
Services Tribunal  
Peshawar

8

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

SERVICE APPEAL No. \_\_\_\_\_/2021

SAJJAD HUSSAIN

VS

GOVT. OF KPK &amp; OTHERS

**APPLICATION FOR SUSPENSION OF OPERATION OF THE  
IMPUGNED OFFICE ORDER NO. 05/CE-9/PHE DATED  
02.12.2021 TILL THE FINAL DISPOSAL OF THE ABOVE  
MENTIONED APPEAL.****RESPECTFULLY SHEWETH:**

- 1- That the above mentioned appeal along with this application has been filed 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 02-12-2021 wherein the appellant has prematurely been transferred from PHE division charsadda to the office of chief engineer (east) PHED Peshawar.
- 3- That if the impugned order dated 02.12.2021 has not been suspended the appellant will face irreparable loss and will declare the above-mentioned appeal infructuous.
- 4- That all the three ingredients necessary for the stay is in favor of the appellant.
- 5- That the impugned order dated 03.03.2021 had been issued by the respondents in utter disregard of law and prevailing Rules with melafide intentions.

It is therefore, most humbly prayed that on acceptance of this application the operation of the impugned dated 02.12.2021 may very kindly be suspended till the disposal of the above mentioned service appeal.

Dated: 17-12-2021

APPELLANT

THROUGH:

FAHEEM ULLAH AKHUNZADA

ADVOCATE HIGH COURT  
PESHAWAR.

17-12-2021  
KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL  
PESHAWAR

9

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

APPEAL NO. \_\_\_\_\_/2021

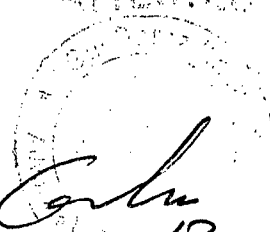
**Sajjad Hussain**

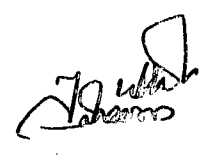
**VS**

**GOVT. OF KPK & Others**

**AFFIDAVIT**

I, Faheem Ullah Akhonzada Advocate High Court Peshawar as per instructions of my client, do hereby solemnly affirm and state, that the contents of accompanying Appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon' able Tribunal.

ATTESTED  
  
17/12/21



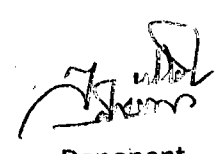
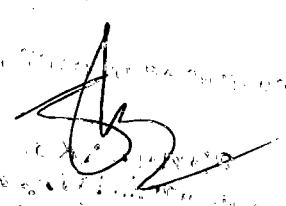
Deponent.

BC: 12-3780  
Cell: 0333-9046202

Dated; \_ 17/12/2021.

**Certificate:**

It is certified that no earlier appeal has been pending or filed between the same parties and on same subject matter except the instant appeal.

29-7-22  
 Deponent  
24/7  
38/7  
29-7-22  
29-7-22  






**OFFICE OF THE CHIEF ENGINEER (CENTER)**  
**PUBLIC HEALTH ENGG: DEPTT: KHYBER PAKHTUNKHWA, PESHAWAR**  
 Ph #091-9217528, E-mail: ccenrphcd@gmail.com, Plot#40, Sector-B-II, Phase-V, Hayatabad, Peshawar (Azir)

No. 321 CE-9 /PHE,

Dated Peshawar, the 25/07/2022

**OFFICE ORDER**

On the recommendation of the Departmental Promotion Committee (DPC) in its meeting held on 29.06.2022, at 10:00 AM under the Chairmanship of Chief Engineer (Center) PHED, the competent authority is pleased to promote the following 23-Nos Junior Clerks (BPS-11) to the post of Senior Clerks (BPS-14), on regular basis, in the best interest of public.


|    |                |     |                     |     |                     |
|----|----------------|-----|---------------------|-----|---------------------|
| 1. | Faheem Ullah   | 9.  | Altaf Khan          | 17. | Asim Khan           |
| 2. | Becna Rani     | 10. | Asmat Ullah         | 18. | Shafi Raz Khan      |
| 3. | Aamir Saleem   | 11. | Aminullah           | 19. | Shafqat Ullah       |
| 4. | Tahir Ali Khan | 12. | Syed Adnan Ali Shah | 20. | Syed Azmat Shah     |
| 5. | Irfan Anwar    | 13. | Farhan Ullah        | 21. | Muhammad Rafiq Khan |
| 6. | Abbas Rahim    | 14. | Adnan Ali           | 22. | Muhammad Tariq      |
| 7. | Naveed Ullah   | 15. | M. Azhar ud Din     | 23. | Farzand Ali         |
| 8. | Wahid Zaman    | 16. | Muhammad Javed      |     |                     |

Consequent upon their regular promotion to the next rank, they will remain on probation for a period of one year, as per Civil Servants act 1973, read with appointment/promotion and transfer rules 1989, as such the following posting/transfer are hereby ordered, with immediate effect.

| #   | Name                | From  | To   | Remarks                      |
|-----|---------------------|---|--|------------------------------|
| 1.  | Faheem Ullah        | Junior Clerk, PHE Division Lakki Marwat         | Senior Clerk, PHE Division Lakki Marwat                        | Against the existing vacancy |
| 2.  | Becna Rani          | Junior Clerk, O/o Chief Engineer (Center) PHED  | Senior Clerk, O/o Chief Engineer (East) PHED                   | Against the existing vacancy |
| 3.  | Aamir Saleem        | Junior Clerk, PHE Division South Waziristan     | Senior Clerk, PHE Division South Waziristan at Tank            | Against the existing vacancy |
| 4.  | Tahir Ali Khan      | Junior Clerk, PHE Division Mardan               | Senior Clerk/SDA, PHE S/Division Swabi                         | Vice item No.33              |
| 5.  | Irfan Anwar         | Junior Clerk, PHE Circle D.I.Khan               | Senior Clerk, PHE Circle D.I.Khan                              | Against the existing vacancy |
| 6.  | Abbas Rahim         | Junior Clerk, PHE Circle Malakand               | Senior Clerk/SDA PHE S/Division Saidu Sharif-I District Swat-I | Against the existing vacancy |
| 7.  | Naveed Ullah        | Junior Clerk, PHE Division D.I.Khan             | Senior Clerk/SDA, PHE Sub Division Banda Daud Shah, Karak-I    | Vice item No.35              |
| 8.  | Wahid Zaman         | Junior Clerk, PHE Division Bannu                | Senior Clerk/SDA, PHE S/Division Bannu-I, Bannu                | Vice item No.36              |
| 9.  | Altaf Khan          | Junior Clerk, PHE Circle Bannu                  | Senior Clerk, PHE Circle Bannu                                 | Against the existing vacancy |
| 10. | Asmat Ullah         | Junior Clerk, PHE Division Lakki Marwat         | Senior Clerk/SDA, PHE S/Division Kolachi, D.I.Khan             | Vice item No.37              |
| 11. | Aminullah           | Junior Clerk, PHE Division Malakand at Batkhela | Senior Clerk/SDA, PHE S/Division Dargai, Batkhela              | Vice item No.27              |
| 12. | Syed Adnan Ali Shah | Junior Clerk, PHE Division Peshawar-I           | Senior Clerk, O/o Chief Engineer (North) PHED                  | Against the existing vacancy |
| 13. | Farhan Ullah        | Junior Clerk, PHE Circle Peshawar               | Senior Clerk, PHE Circle Peshawar                              | Against the existing vacancy |
| 14. | Adnan Ali           | Junior Clerk, O/o Chief Engineer (East) PHED    | Senior Clerk, O/o Chief Engineer (South) PHED                  | Against the existing vacancy |

|     |                                |   |  |                                 |
|-----|--------------------------------|---|--|---------------------------------|
| 15. | M. Azhar ud Din                | Junior Clerk, PHE<br>Division Peshawar-II                         | Senior Clerk/SDA No. II,<br>PHE Division Peshawar-I                | Against the<br>existing vacancy |
| 16. | Muhammad Javed                 | Junior Clerk, PHE<br>Division Lakki Marwat                        | Senior Clerk/SDA, PHE<br>S/Division No.2, I/Marwat                 | Against the<br>existing vacancy |
| 17. | Asim Khan                      | Junior Clerk, PHE<br>Division North Waziristan                    | Senior Clerk/SDA, PHE<br>S/Division No-1, Kurram                   | Vice item No.24                 |
| 18. | Shafi Raz Khan                 | Junior Clerk, PHE<br>Division North Waziristan                    | Senior Clerk/SDA, PHE<br>S/Division Miranshah,<br>North Waziristan | Vice item No.42                 |
| 19. | Shafqat Ullah                  | Junior Clerk, PHE<br>Division Bannu                               | Senior Clerk, PHE Division<br>Bannu                                | Against the<br>existing vacancy |
| 20. | Syed Azmat Shah                | Junior Clerk, PHE<br>Division Bannu                               | Senior Clerk/SDA, PHE<br>S/Division Kohat, Kohat                   | Against the<br>existing vacancy |
| 21. | Muhammad Rafiq<br>Khan         | Junior Clerk, PHE Circle<br>Peshawar                              | Senior Clerk/SDA, PHE<br>S/Division Khyber                         | Against the<br>existing vacancy |
| 22. | Muhammad Tariq                 | Junior Clerk, O/o Chief<br>Engineer (Center) PHED                 | Senior Clerk, O/o Chief<br>Engineer (Center) PHED                  | Against the<br>existing vacancy |
| 23. | Farzand Ali                    | Junior Clerk, PHE<br>Division Shangla                             | Senior Clerk/SDA, PHE<br>S/Division Alpuri, Shangla                | Against the<br>existing vacancy |
| 24. | Riaz Hussain                   | Senior Clerk/SDA No.-1,<br>PHE Division Kurram                    | Account Clerk (OPS) PHE<br>Division Kurram                         | Against the<br>existing vacancy |
| 25. | Saeed Khan                     | Senior Clerk/SDA No.2<br>PHE Division Kurram                      | Junior Scale Stenographer<br>(OPS) PHE Division<br>Kurram          | Against the<br>existing vacancy |
| 26. | Bashir Nawaz                   | Senior Clerk, PHE<br>Division Kohat                               | Junior Scale Stenographer<br>(OPS) PHE Division Kohat              | Against the<br>existing vacancy |
| 27. | Waqar Anjum                    | Senior Clerk/SDA, PHE<br>S/Division Dargai, Batakela              | Senior Clerk, PHE Circle<br>Swat                                   | Against the<br>existing vacancy |
| 28. | Qazi Muhammad<br>Tariq         | Senior Clerk, PHE<br>Division Charsadda                           | Accounts Clerk (OPS) PHE<br>Division Nowshera                      | Vice item No.32                 |
| 29. | Abdul Waheed                   | Senior Clerk/SDA PHE<br>S/Division-2, Bannu                       | Junior Scale Stenographer<br>(OPS) PHE Division Bannu              | Against the<br>existing vacancy |
| 30. | Ubaid Us Salam                 | Senior Clerk/SDA, PHE<br>S/Division No.1,<br>Abbottabad           | Accounts Clerk (OPS),<br>PHE Circle Abbottabad                     | Against the<br>existing vacancy |
| 31. | Tehsil Khan                    | Senior Clerk PHE<br>Division Karak-I                              | Senior Clerk, PHE Circle<br>Kohat                                  | Against the<br>existing vacancy |
| 32. | Yousaf Khan<br>Senior Clerk    | Accounts Clerk (OPS)<br>PHE Division Nowshera                     | Senior Clerk, PHE Division<br>Charsadda                            | Vice item No.28                 |
| 33. | Ijaz Hussain                   | Senior Clerk/SDA PHE<br>S/Division Swabi                          | Junior Scale<br>Stenographer (OPS),<br>PHE Division Swabi          | Against the<br>existing vacancy |
| 34. | Noor Hadi                      | Senior Clerk/SDA PHE<br>S/Division Lahore,                        | Senior Clerk (Rev), PHE<br>Division Swabi                          | Against the<br>existing vacancy |
| 35. | Hafiz-ur-Rehman                | Senior Clerk/SDA, PHE<br>Sub Division Banda<br>Daud Shah, Karak-I | Senior Clerk PHE<br>Division Karak-II                              | Against the<br>existing vacancy |
| 36. | Javed Ali Shah                 | Senior Clerk/SDA PHE<br>S/Division No. I, Bannu                   | Junior Scale<br>Stenographer (OPS) PHE<br>Division Bannu           | Against the<br>existing vacancy |
| 37. | Mohammad Shafiq                | Senior Clerk/SDA PHE<br>S/Division Kolachi,<br>D.I.Khan           | Assistant Research Officer<br>(OPS), PHE Circle<br>D.I.Khan        | Against the<br>existing vacancy |
| 38. | Muhammad<br>Haroon             | Senior Clerk/SDA PHE<br>S/Division Dir, Upper<br>Dir              | Senior Clerk (Rev), PHE<br>Division Dir Upper                      | Against the<br>existing vacancy |
| 39. | M. Ejaz Khan                   | Senior Clerk/SDA PHE<br>S/Division No.II,<br>Abbottabad           | Accounts Clerk (OPS),<br>PHE Division Abbottabad                   | Vice item No.40                 |
| 40. | Muhammad Munir<br>Senior Clerk | Accounts Clerk (OPS),<br>PHE Division<br>Abbottabad               | Senior Clerk/SDA PHE<br>S/Division No.II,<br>Abbottabad            | Vice item No.39                 |

|     |                             |  |  |                              |
|-----|-----------------------------|--|--|------------------------------|
| 41. | Abdus Salam                 | Senior Clerk/SDA PHE S/Division Battagram                    | Senior Clerk (Rev), PHE Division Battagram                   | Against the existing vacancy |
| 42. | Syed Ali Shah               | Senior Clerk/SDA, PHE S/Division Miranshah, North Waziristan | Senior Clerk/SDA PHE S/Division-2, Bannu                     | Vice item No.29              |
| 43. | Muhammad Imran Senior Clerk | PHE Division Bannu   | Senior Clerk/SDA PHE S/Division Pahar Pur, District D.I.Khan | Against the existing vacancy |
| 44. | Shakil Ahmad Senior Clerk   | Accounts Clerk (OPS), PHE Division Charsadda                 | Senior Clerk/SDA, PHE Sub Division Charsadda                 | Vice item No.45              |
| 45. | Sajjad Hussain Senior Clerk | Senior Clerk/SDA, PHE Sub Division Charsadda                 | Accounts Clerk (OPS), PHE Division Charsadda                 | Vice item No.44              |
| 46. | Shafi Raza Junior Clerk     | PHE Division Mardan  | Senior Clerk/SDA (OPS) PHE Sub Division Mardan               | Against the existing vacancy |
| 47. | Amin Ullah Junior Clerk     | PHE Division Khyber  | Senior Clerk/SDA (OPS), PHE S/Division Bajaur                | Against the existing vacancy |
| 48. | Mumtaz Ali Junior Clerk     | PHE Division Swabi   | Senior Clerk/SDA (OPS), PHE S/Division Samarbagh, Dir Lower  | Against the existing vacancy |
| 49. | Hamid Khan Junior Clerk     | PHE Division Hangu   | PHE Circle Peshawar  | Against the existing vacancy |
| 50. | Miss Shaista Junior Clerk   | PHE Division Swabi   | PHE Division Mardan  | Vice item No.4               |
| 51. | Najeeb Ullah Junior Clerk   | PHE Division Karak-I   | PHE Circle Bannu   | Vice item No.9               |
| 52. | Mst. Madiha Waheed          | Junior Clerk, PHE Division D.I.Khan                          | Junior Clerk, PHE Circle D.I.Khan                            | Vice item No.5               |
| 53. | Habib Ullah Junior Clerk    | PHE Division Kohistan Upper                                  | PHE Division Shangla   | Vice item No.23              |

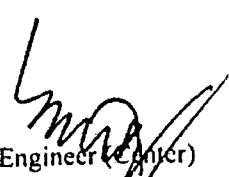
  
Chief Engineer (Center)

Endstt: No 32/CE-2/PHE,

Dated Peshawar, the 25/07 /2022

Copy forwarded to:

1. The Accountant General Khyber Pakhtunkhwa Peshawar.
2. The Chief Engineer (North/South/East) PHE Department Peshawar.
3. All Superintending Engineers PHE Circle South/North/East/Center Khyber Pakhtunkhwa.
4. All Executive Engineers PHE Division South/North/East/Center Khyber Pakhtunkhwa.
5. The Section Officer (Estt) PHE Department Peshawar.
6. The Research Officer (W/Q) PHE Central Lab Peshawar.
7. The District Accounts Officer Concerned.
8. The official concerned.

  
Chief Engineer (Center)

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"A"

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

No.

12(2) No. 449

SB

APPEAL NO..... of 20<sup>22</sup>.

Sajjad Hussain

Appellant/Petitioner

Versus

Govt of KPK through Chief Secy

RESPONDENT(S)

Respondent - (1)

Govt of KPK through Chief Secy

Notice to Appellant/Petitioner

Secy Peshawar

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 15/09/2022 at 9:00 am

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

For Reply

Copy Attached

ISSUED BY  
CHIEF  
Govt of Khyber Pakhtunkhwa  
15-09-2022

Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.