

Sr. No.	Date of order/ proceedings	Order or other proceedings with signature of Judge/ Magistrate
1	2	3
1.	15.05.2015	<p data-bbox="630 458 1403 533" style="text-align: center;">KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.</p> <p data-bbox="802 578 1230 618" style="text-align: center;">Service Appeal No.1367/2013,</p> <p data-bbox="630 657 1549 732" style="text-align: center;">Abdul Wadood Versus Secretary, Social Sector of FATA, Peshawar and others.</p> <p data-bbox="776 777 964 817" style="text-align: center;"><u>JUDGMENT</u></p> <p data-bbox="776 857 1549 897" style="text-align: center;"><u>ABDUL LATIF, MEMBER.-</u> Appellant with</p> <p data-bbox="630 936 1549 1136">counsel (Arbab Saiful Kamal, Advocate) and Mr. Muhammad Adeel Butt, Addl. AG with Muhammad Maaz, Litigation Assistant for the respondents present.</p> <p data-bbox="630 1231 1549 1664">2. The instant appeal has been filed by appellant Abdul Wadood, Junior Clerk in the Health Department at Ghallani Mohmand Agency under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974 against order dated 24.09.2013, whereby his departmental appeal against the order dated 04.09.2013 was rejected.</p> <p data-bbox="630 1754 1549 2352">3. Brief facts of the case are that the appellant worked as Junior Clerk in office of Agency Surgeon Mohamand at Ghallanai and was transferred on 20.3.2013 to Health Directorate FATA. The said order was held in abeyance on 27.3.2013 till completion of enquiry on complaint made by Haji Behram Khan, President Mutahida Mohmand Jirga. On 04.7.2013, he was transferred to FR Kohat. The enquiry report dated 05.8.2013 exonerated the appellant from the charges. That on 04.9.2013, the</p>

order dated 04.7.2013 was withdrawn and appellant was again posted in Ghalanai. Representation submitted on 11.09.2013 was rejected vide order dated 24.09.2013, hence the instant appeal.

4. The learned counsel for the appellant argued that the appellant was serving in the department for last 19 years. That appellant was transferred on the basis of complaint of Haji Bahram Khan and enquiry report dated 23.08.2013 exonerated him of the charges. That the appellant was transferred from one station to another in short span of time and such transfers are highly condemned by the august Supreme Court of Pakistan. That appellant was transferred to FR Kohat on malafide as there was no vacant post of Junior Clerk in FR Kohat. That post of Junior Clerk is a district cadre post and no one can be transferred to other district being low paid employee. He prayed that the appeal may be accepted by setting aside the impugned order.

5. The learned Government Pleader on behalf of respondent department argued that the appellant was transferred in exigencies of public service under Section 10 of the Civil Servants Act, 1973 and he was liable to serve anywhere. Moreover he had a long stay at the existing station in Ghallanai and there were serious allegations of corruption against him which were proved in the enquiry. Moreover, he was transferred within FATA to the nearest station where post was available to accommodate him. Also the Agency Surgeon Mohmand was transferred out from the Agency on the basis of the same

Q.F.I.

allegations in the same complaint. He prayed that appeal being devoid of any merit may be dismissed.

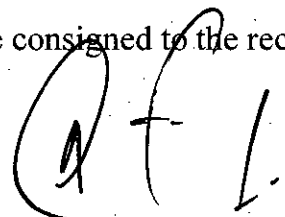
6. Arguments of the learned counsel for the parties heard and record perused with their assistance.

7. From perusal of record it transpired that the appellant worked at Ghallanai Mohamand Agency for almost 20 years. It appears that policy of tenure was not earlier applied which resulted in his prolonged stay at the existing station. In the circumstances allegations of corruption against him and other officers/officials was natural. It is not clear as to whether the department intended to proceed further against the appellant for the allegations proved against him by the fact finding enquiry. However, the appellant failed to make out any good case to indulge interference of this Tribunal. The Tribunal is therefore, constrained not to interfere in the matter. The instant appeal is dismissed. No order as to costs. File be consigned to the record.

ANNOUNCED
15.5.2015.



(PIR BAKHSH SHAH)
MEMBER



(ABDUL LATIF)
MEMBER

2.3.2015

Counsel for the appellant, and Addl. AG with Muhammad Mahaz, Litigation Assistant for the respondents present. The learned Member-II of the D.B is busy in Bench-III, therefore, case is adjourned to 24.4.2015 for arguments. Till then status quo is extended.


MEMBER

24.4.2015

Appellant with counsel (Arbab Saiful Kamal, Advocate) and Mr. Kabeerullah Khattak, Addl. AG with Muhammad Maaz, Litigation Assistant for the respondents present. Arguments heard. To come up for order on 15.5.2015. Till then status quo is extended.


MEMBER


MEMBER

1367/13

23.10.2014

Petitioner with counsel and Mr. Muhammad Adeel Butt, AAG with Muhammad Mahaz Madni, Litigation Assistant for the respondents present. Representative of the respondents produced copy of order dated 03.10.2014, whereby order dated 26.09.2014 has been cancelled in the light of order of this Tribunal. So far as the main appeal is concerned, the Tribunal is incomplete and case is adjourned to 21.11.2014 for arguments. Till then status quo is extended.

21.11.2014

MEMBER
Appellant with counsel and Mr. Muhammad Adeel Butt, AAG with Muhammad Mahaz Madni, Litigation Assistant for the respondents present. The Tribunal is incomplete. To come up for the same on 31.12.2015.


MEMBER

12.1.2015

Appellant alongwith his counsel and Mr. Muhammad Jan, GP for the respondents present. The learned counsel for the appellant requested for adjournment on the ground that he could not prepare arguments as the Tribunal was dis-functional. Case to come up for arguments on 02.3.2015. Till then status quo is extended.


MEMBER


MEMBER

16.09.2014

Appellant with counsel and Mr. Ziaullah, GP with Muhammad Mahaz Madni, Litigation Assistant for the respondents present. The learned Member (Judicial) is not working due to a recent order affecting his status as District & Sessions Judge. To come up as before on 21.11.2014.


READER

01.10.2014

Counsel for the appellant present and requested for requisition of file for to-day. File has been requisitioned.

Counsel for the appellant submitted before the court that vide impugned order dated 2720-23/ASM, dated 26.09.2014 the appellant has been transferred from the office of Agency Surgeon to RHC Ekaghund during the pendency of the appeal and status quo granted by this Tribunal on 11.10.2013. He requested that subsequent transfer order dated 26.09.2014 may be suspended. Notice of application be issued to the respondents for reply/arguments on 23.10.2014. Till then the subsequent transfer order dated 26.09.2014 is suspended to the extent of present appellant.


MEMBER

1367/13

10.3.2014

Appellant with counsel and Mr. Muhammad Jan, GP with Muhammad Mahaz, Assistant for respondents present. Rejoinder received. Copy handed over to the learned GP. To come up for arguments on 09.5.2014. Till then status quo is extended.


MEMBER


MEMBER

09.05.2014

Appellant with counsel and AAG with Muhammad Maaz Madni, Assistant for the respondents present. Counsel for the appellant needs time. To come up for arguments on 10.6.2014. Till then status quo is extended.


MEMBER


MEMBER

10.6.2014.

Appellant in person and AAG with Muhammad Maaz Madni, Assistant for the respondents present. Request made on behalf of the appellant for adjournment due to pre-occupation of his counsel in august Supreme Court of Pakistan. To come up or arguments on 23.7.2014. Till then status quo is extended.


MEMBER


MEMBER

23.07.2014

Appellant with counsel and Mr. Muhammad Jan, GP with Muhammad Mahaz, Judicial Assistant for the respondents present. Due to retirement of learned Executive Member, the Bench is incomplete. To come up for arguments on 16.09.2014. Till then status quo is extended.


MEMBER

22.11.2013

Appellant with counsel and Mr. Muhammad Adeel Butt, AAG with Muhammad Mahaz, Assistant Litigation for the respondents present and requested for further time. To come up for written reply on main appeal as well as reply/arguments on stay application on 27.12.2013. Till then status quo is extended.

MEMBER

MEMBER

27.12.2013.

Appellant with counsel and Mr. Muhammad Jan, GP with Muhammad Mahaz, Litigation Assistant for the respondent No. 3 present and filed written reply on stay application and requested for time to file written reply on main appeal. Copy handed over to counsel for the appellant. Notices be issued to respondents No. 1 and 2. To come up for written reply of respondents No. 1 to 3 on main appeal as well as reply of respondents No. 1 and 2 on stay application and arguments on stay application on 17.1.2014. Till then status quo is extended.

MEMBER

MEMBER

17.1.2014

Appellant with counsel and Mr. Muhammad Adeel Butt, AAG with Muhammad Mahaz, Litigation Assistant for the respondents present and replies on main appeal as well as stay application filed. Copies handed over to counsel for the appellant. Rejoinder, if any, in the meantime and case to come up for arguments on 10.3.2014. Till then status quo is extended.

MEMBER

MEMBER

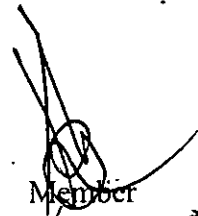
Appeal No. 1367/2013.
Mr. Abul Wedood.

3.

26.09.2013.

Appellant with counsel present and heard on preliminary. Contended that the appellant has not been treated in accordance with law/Rules. He further contended that the impugned appellate order dated 24.09.2013 is not a speaking order as no reason has been given. Therefore, the order No. 14175-77/DHS/FATA/Admn. dated 4.9.2013 may be set aside and office order No. 14159-65/DHS/FATA/Admn. dated 4.9.2013 may be restored with all back benefits. Points raised at the Bar need consideration. The appeal is admitted for regular hearing, subject to all legal objections. The appellant is directed to deposit process fee and security within 10 days. Thereafter notices be issued to the respondents for submission of written reply on 11.10.2013. The appellant also filed an application for suspension of the operation of impugned order dated 4.09.2013. Notice of application should also be issued to the respondents for reply/arguments on the date fixed.

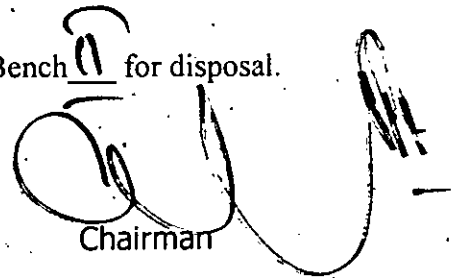
Appellant deposited
process fee & security
Rs. 180/- Bar & Receipt
attached with file


Member

4.

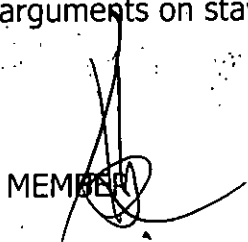
26.09.2013

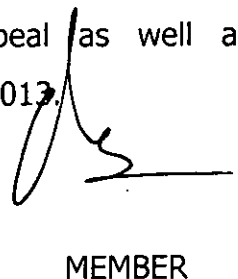
This case be put up before the leaned Bench 1 for disposal.


Chairman

11.10.2013.

Appellant alongwith his counsel and Mr. Muhammad Jan, GP present. None is present on behalf of the respondents despite proper service. Arguments on application for suspension of impugned order heard and case file perused. Since the matter needs consideration, therefore, status quo is granted till the next date. Fresh notices be issued to the respondents positively for submission of written reply on main appeal as well as reply/arguments on stay application on 22.11.2013.


MEMBER




MEMBER

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 1367 /2013

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	25/09/2013	<p>The appeal of Mr. Abdul Wadood presented today by Mr. Saad Ullah Khan Marwat Advocate may be entered in the Institution Register and put up to the Worthy Chairman for preliminary hearing.</p> <p style="text-align: right;"> REGISTRAR</p>
2	25-9-2013	<p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on <u>26-9-2013.</u></p> <p style="text-align: right;"> CHAIRMAN</p>

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

S.A. No. 1367/2013

Abdul Wadood

Versus

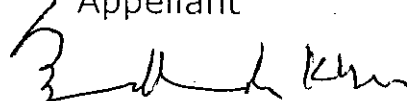
Secretary, FATA & others

I N D E X

S.No	Documents	Annex	P.No.
1.	Memo of Appeal		1-4
2.	Transfer from M. Agency to Directorate, 20.03.2013	"A"	5
3.	Abeyance order, 23.03.2013	"B"	6
4.	Transfer to FR Kohat, 04.07.2013	"C"	7
5.	Inquiry Report, 05.08.2013	"D"	8-10
6.	Withdrawal order, 04.09.2013 of 04.07.2013	"E"	11
7.	Restoration order, 04.09.2013 of 04.09.2013	"F"	12
8.	Representation, 11.09.2013	"G"	13-15
9.	Rejection order, 24.09.2013	"H"	16

Dated. 25.09.2013

Through

Appellant

Saad Ullah Khan Marwat
Advocate.
21-A Nasir Mension,
Shoba Bazar, Peshawar.

Ph: 0300-5872676

1

BEFORE KPK SERVICE TRIBUNAL PESHAWAR

S.A No. 1367 / 2013

Abdul Wadood S/o Muhammad Azam,
Junior Clerk, Mohmand Agency at
Ghalani

~~S.W.F. Province~~
~~Lawyer~~
~~Case No.~~ 1404
~~Date~~ 25/9/13

Appellant

Versus

1. Secretary, Social Sector of FATA.
2. Additional Chief Secretary FATA,
3. Director, Health Services, FATA.

All FATA Secretariat, Warsak Road,
Peshawar Respondents

⇔<=>⇔<=>⇔<=>⇔<=>⇔

APPEAL U/S 4 OF THE SERVICE TRIBUNAL
ACT, 1974 AGAINST ORDER
NO.15410/DHS/FATA/ADMN DATED
24.09.2013 WHEREBY DEPARTMENTAL
APPEAL OF APPELLANT AGAINST ORDER
NO.14175/77/DHS/FATA/ADMN DATED
04.09.2013 OF R.NO.1 WAS WITHDRAWN
FOR NO LEGAL REASON.

~~Signature~~
25/9/13

⇔<=>⇔<=>⇔<=>⇔<=>⇔

Respectfully Sheweth;

1. That appellant was initially appointed as Junior Clerk on 19.04.1995 and since then, he is performing his duties to the best of his ability.
2. That on 20.03.2013, appellant was transferred from the office of Agency Surgeon Mohmand at Ghallani to report Health Directorate for duties. (Copy as annex "A")

3. That on 27.03.2013, order dated 20.03.2013 was held in abeyance till the completion of inquiry proceedings on complaint of Haji Behram Khan so called President Mutahida Mohmand Jirga, Mohmand Agency. (Copy as annex "B")
4. That on 04.07.2013, appellant was transferred to FR, Kohat from Mohmand Agency. (Copy as annex "C")
5. That inquiry into the matter against appellant was conducted by the Inquiry Committee wherein appellant was exonerated from the baseless charges vide inquiry report dated 05.08.2013. (Copy as annex "D")
6. That on 04.09.2013, order dated 04.07.2013 was withdrawn and appellant was again posted at Ghalani, Mohmand Agency. (Copy as annex "E")
7. That on 04.09.2013, the aforesaid order i.e. 04.09.2013 was withdrawn. In fact this order was back dated as is evident from the same. (Copy as annex "F")
8. That on 11.09.2013, appellant submitted representation before respondents for cancellation of the impugned order which was regretted vide order dated 24.09.2013. (Copies as annex "G & H")

Hence this appeal, inter alia, on the following grounds:-

G R O U N D S:

- a. That appellant is serving the department for the last 19 years with devotion.
- b. That R.NO.1 did withdraw order dated 04.09.2013 on the said date, but infact such date was anti dated into 04.09.2013 as appellant is serving at the post of Junior Clerk in the office of Agency Surgeon, Ghallani Mohmand Agency till 10.09.2013.
- c. That after conclusion of the Inquiry proceedings made at the complaint of Haji Behram Khan, appellant was

exonerated from the baseless charges by the Inquiry Committee vide recommendation dated 23.08.2013.



- d. That appellant served the offices upto the mark without any complaint for more than 20 years.
- e. That Haji Behram Khan Complained against appellant for his illegal lust, but appellant did not bow to the said, so baseless complaint was filed by the said Haji.
- f. That the baseless complaint of Haji Behram Khan of the Agency was inquired into by the Inquiry Committee, but did not find any material against appellant, so he was exonerated from the baseless charges by the Inquiry Committee.
- g. That appellant was repeatedly transferred from one station in short span of time to another for no legal reason but due to ulterior motives.
- h. That repeated transfers are highly condemned by the apex Supreme Court of Pakistan on the reason that the same reduce confidence and faith & efficiency of the servant in performance of the official duties. The same also always brings bad name for the department.
- i. That malafide of the authority is apparent from the impugned order by transferring him to office of Agency Surgeon, FR Kohat where no such post was lying vacant.
- j. That appellant is a low paid employee and the apex Court has held time and again that low paid employees shall not be transferred to far flung areas.
- k. That a post of Junior Clerk is a District cadre post and no one can be transferred to other district, being low paid employee too.

It is, therefore, most humbly prayed that on acceptance of appeal, the impugned office order dated 24.09.2013 or office order No.14175-77/DHS/FATA/Admn, dated 04.09.2013 be set aside and office order No.14159-

65/DHS/FATA/Admn dated 04.09.2013 be restored with all back benefits, with such other relief as may be deemed proper and just in circumstances of the case.

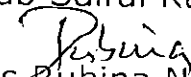
Dated. 25.09.2013

Through


Appellant

Saad Ullah Khan Marwat


Arbab Saiful Kamal

&


Miss Rubina Naz,
Advocates.

A

5

20-3-13

DIRECTORATE HEALTH SERVICES, FATA
FATA SECRETARIAT, WARSAK ROAD PESHAWAR

OFFICE ORDER.

As approved by the competent authority Mr. Abdul Wadood Junior Clerk Agency Surgeon Office Mohmand at Ghallania is hereby directed to report to Health Directorate FATA till further order with immediate effect.

-----sd-----

Director Health Services
FATA Peshawar.

No. 4664-67/DHS/FATA/Admn.

Dated. 20/03/2013

Copy to the:-

1. Secretary Social Sector Department FATA.
2. Agency Surgeon Mohmand at Ghallania.
3. Agency Account Officer Mohmand at Ghallania.
4. Official Concerned.

For information and necessary action please.

Abdul Wadood
Abdul Wadood

Director Health Services
FATA Peshawar.

B

6

27-3-13

DIRECTORATE OF HEALTH SERVICES FATA
FATA SECRETARIAT WARSAK ROAD PESHAWAR.

2

OFFICE ORDER:

As per directives of the competent authority the transfer order of Mr. Abdul Waheed, Junior Clerk Agency Surgeon Office Mohmand at Ghallanai to Health Directorate FATA contained in this Directorate office order bearing endorsement No. 4664-67/DHS/FATA/Admin dated 20/03/2013 is hereby held in-abeyance till the completion of enquiry report on complaint of Haji Behram Khan, president Mutahida Mohmand JIRGA Mohmand Agency.

.....sd.....
Director Health Services,
FATA, Peshawar.

No. 4870-25/DHS/FATA/Admin
Copy to the:

Dated 27/03/2013

1. Secretary Social Sectors Department FATA.
2. Agency Surgeon Mohmand at Ghallanai.
3. Agency Account Officer Mohmand at Ghallanai.
4. Official concerned.

Secy.
Muzafar MIA
Jy
21/4/2013

AF 27/3
Director Health Services,
FATA, Peshawar.

ADU
A. Adnan

C
9
4-7-13
DIRECTORATE OF HEALTH SERVICES FATA
FATA SECRETARIAT WARSAK ROAD PESHAWAR

OFFICE ORDER:

Mr. Abdul Wadood, Junior Clerk (BPS-07) attached to Agency Surgeon Mohamed at Ghallanai is hereby transferred and posted in the office of Agency Surgeon FR- Kohat against the vacant post of Senior Clerk in his own pay scale in the interest of public service with immediate effect.

.....
Director Health Services,
FATA, Peshawar.

No. 11940-44/DHS/FATA/Admn

Dated 4/07/2013

Copy forwarded to:

1. Agency Surgeon Mohamed at Ghallanai.
 2. Agency Surgeon FR- Kohat.
 3. Agency Accounts Officer Mohamed at Ghallanai.
 4. District Accounts Officer Kohat.
 5. Official concerned.
- For information and necessary action.

Director Health Services
FATA, Peshawar.

Abdul Wadood

ENQUIRY REPORT

SUBJECT: FACT FINDING ENQUIRY REGARDING ALLEGATIONS LEVELED AGAINST AGENCY SURGEON GHALLANAI MOHMAND AGENCY AND HIS OTHER STAFF.

The following enquiry committee was constituted (Annex-I) for conducting fact finding enquiry about the charges / allegations leveled against Agency Surgeon, Ghallanai Mohmand Agency and other staff of his office by Haji Behram Khan, President of Muttahida Mohmand Jirga, Mohmand Agency and others four (04) Malikis.

- a) Muhammad Naqeeb, Deputy Secretary P&LDD FATA, FATA Secretariat, Peshawar.
- b) Ahmad Nawaz, Section Officer FATA-I, Finance Department FATA, FATA Secretariat, Peshawar.

BACKGROUND

02. Haji Behram Khan, President of Muttahida Jirga, Mohmand Agency and other four (04) Malikis leveled the following charges/allegations against Agency Surgeon Ghallanai, Mohmand Agency and his other staff (Annex-II)

Mr. Abdul Wadood, Junior Clerk is a corrupt official and he pays monthly Rs. 0.200 Million to Agency Surgeon (Dr. Daud) due to his corruption. He was transferred from Agency Surgeon Mohmand Agency at Ghallanai to Health Directorate FATA, but he got cancelled his transfer order within ten (10) days due to his influence. He gets monthly from Para Medical and Doctors. The details of which are as under

- a. Dr. Pervez Iqbal is absent from duty nearly since ten years and his place of duty is also not known. He carries his private job and for which he pays monthly Rs. 15000 to Agency Surgeon (Dr. Daud) and to Lutf-ur-Rehman, Head Clerk.
- b. Dr. Syed Safdar Shah is out of country nearly since three years and his father gets his half pay from the residence of Mr. Abdul Wadood, Junior Clerk.
- c. Dr. Naveed Afzal, who is residing in Hayatabad Peshawar and performs his duty in RMI for which pays monthly Rs. 15000/-
- d. Dr. Muhammad Zahid who was transferred to Hayatabad Medical Complex three years ago performs his duty in Hayatabad Medical Complex and is getting his pay from HMC. But on the other hand his pay has not been stopped in Mohmand Agency and Mr. Abdul Wadood, Junior Clerk and Mr. Lutf-ur-Rehman, Head Clerk get his pay from Mohmand Agency.
- e. Same is the position of Dr. Sajid Ali, Dr. Ansa Kalsoom and Dr. Zia-ud-din. Besides many other Doctors are sitting in their homes and get their monthly pay and for which they pay monthly to Agency Surgeon (Dr. Daud) and to Mr. Abdul Wadood Junior Clerk.

amount among themselves. The E.P.I Technicians protested and moved an application to the Governor and other concerned officers, but no response received up till now. On the other hand, the Agency Surgeon instead of accepting the request of E.P.I Technicians has started their transfer to various places due to which E.P.I Technicians reluctantly kept silent.

REPLY/STATEMENT OF MR. ABDUL WADOOD, JUNIOR CLERK OF THE OFFICE OF AGENCY SURGEON

CHARGES/ALLEGATIONS

Mr. Abdul Wadood, Junior Clerk is a corrupt official and he pays monthly Rs. 0.200 Million to Agency Surgeon (Dr. Daud) due to his corruption. He was transferred from Agency Surgeon Mohmand Agency at Ghallanai to Health Directorate FATA, but he got cancelled his transfer order within ten (10) days due to his influence. He gets monthly from Para Medical and Doctors. The details of which are as under

- (a) Dr. Pervez Iqbal is absent from duty nearly since ten years and his place of duty is also not known. He carries his private job and for which he pays monthly Rs. 15000 to Agency Surgeon (Dr. Daud) and to Lutf-ur-Rehman, Head Clerk.
- (b) Dr. Syed Safdar Shah is out of Country nearly three years and his father gets his half pay from the residence of Mr. Abdul Wadood, Junior Clerk.
- (c) Dr. Naveed Afzal, who is residing in Hayatabad Peshawar and perform his duty in RMI for which pays monthly Rs.15000/-
- (d) Dr. Muhammad Zahid who was transferred to Hayatabad Medical Complex three years ago performs his duty in Hayatabad Medical Complex and is getting his pay from HMC. But on the other hand his pay has not been stopped in Mohmand Agency and Mr. Abdul Wadood, Junior Clerk and Mr. Lutf-ur-Rehman, Head Clerk get his pay from Mohmand Agency.

REPLY/STATEMENT (ANNEX-VI)

Mr. Abdul Wadood Junior Clerk has mentioned in his statement that Muttahida Jirga has already been dissolved in 2006 by Mr. Mir Afzal President Muttahida Jirga. As evidence clips of News Paper are attached with the statement. He has also attached death certificate of Malik Taza Gul Tangi, one of the members of the Muttahida Jirga. He has attached affidavits of the other members, except Haji Behram Khan, all of them have shown their ignorance with the complaint lodged by Haji Behram Khan. He has mentioned the same remarks as has been recorded by Mr. Lutf-ur-Rahman Senior Clerk in his statement, which are as under:

Dr. Pervaiz Iqbal against whom complainant leveled charges of absenteeism, Mr. Abdul Wadood stated that his first appointment was made for one year on contract basis in June, 2012 which was expired in June, 2013. He had discharged his duty regularly, while posted in BHU Pindale, hence charge of absent from duty for ten (10) years is baseless.

Dr. Safdar Shah is not out of Country. He has been receiving salary every month in person. RHC Atta Jawar was destroyed by the militants some time back. After that incident, performance of Officer is not up to the mark.

Dr. Naveed Afzal appointed on 11-09-2012 and posted in RHC Yaka Ghund near to Agency Surgeon Office, he is regular in his duty.

Salary of Dr. Muhammad Zahid has been stopped by the Head Clerk from July, 2013. His enclosed acquaintance roll as evidence. His salary was being disbursed by the Ex-Senior-Clerk Mr. Nisar Khan for the last three (03) years. Neither the

AH-2013

Q

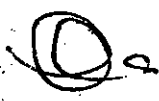
afzal

4


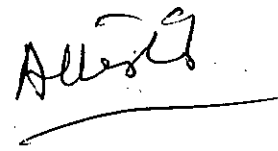
RECOMMENDATIONS

09 The Enquiry Committee recommends as under:-

- a) Disciplinary action under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011 is required to be initiated against Ex-Head Clerk (Mr. Nasir Khan) on the allegations pointed out by Agency Surgeon Ghallani Mohmand Agency, Head Clerk Mr. Lutf-ur-Rahman and Mr. Abdul Wadood Joiner Clerk in their written statements
- b) Instructions should be issued to the Office of Agency Surgeon Mohmand Agency to make arrangement for payment of salaries of all staff through Bank as per requirements of Rules.
- c) Disciplinary action under Khyber Pakhtunkhwa, Government servants (Efficiency and Discipline) Rules 2011 is required to be initiated against Dr. Muhammad Zahid due to his absence from duties and against Dr. Sayed Safdar Shah due to his poor performance as pointed out by Agency Surgeon in his written statement.
- d) The Political Administration Mohmand Agency may call Haji Behram Khan, President of Muttahida Mohmand Jirga and ask him to explain as to why he has lodged the false complaint.
- e) The transfer order of Mr. Abdul Wadood, Junior Clerk may be withdrawn as the Agency Surgeon is satisfied with the performance of the official. The Directorate of Health Services FATA may make it ensure to obtain all the relevant office record etc of the Office of Agency Surgeon from the Head Clerk Mr. Nisar Khan and handed over to the Agency Surgeon Office Ghallanai.



Ahmed Nawaz)
Section Officer FATA-I, Finance
Department FATA / Inquiry Officer


(Muhammad Naqeeb)
23/08/2023
Deputy Secretary P&LDD FATA /
Inquiry Officer

E

H

4-9-13

DIRECTORATE OF HEALTH SERVICES FATA
FATA SECRETARIAT WARSAK ROAD PESHAWAR

OFFICE ORDER

As recommended by the inquiry committee the transfer order of Mr. Abdul Wadood Junior Clerk from Agency Surgeon Office Mohmand to Agency Surgeon Office FR Kohat contained in this Directorate Office order bearing endorsement No. 11940-44/DHS/FATA/Admn: dated: 4/07/2013 is hereby withdrawn.

He is hereby allowed to work on his original post in Mohmand Agency in the public interest.

Sd/-XX
Director Health Services
FATA, Peshawar

No. 14159-65/DHS/FATA/Admn

Dated Peshawar the: 04/09/2013

Copy forwarded to the:-

1. Political Agent Mohmand at Ghallanai.
2. Agency Surgeon Mohmand at Ghallanai.
3. Medical Superintendent AHQ: Hospital Ghallanai.
4. Agency Account Officer Mohmand.
5. District Accounts Officer Kohat.
6. Agency Surgeon FR Kohat.
7. Official Concerned.

Sd/-XX
Director Health Services,
FATA, Peshawar

OFFICE OF THE AGENCY SURGEON MOHMAND AT GHALLANAI

No. 7040-44 /ASM

Dated: 6 /09/2013

Forwarded to the:

1. Director Health services FATA Peshawar with the above noted reference.
2. Political Agent Mohmand Agency.
3. Additional Political Agent Mohmand Agency.
4. Medical Superintendent AHQ: Hospital Ghallanai.
5. Agency Account Officer Mohmand Agency.

For information and necessary action please.

Handwritten signature

Agency Surgeon
Mohmand Agency

CHECK CURRENT TIME!

DATE AND TIME : JAN 27 '00 20:44

F

12

4-9-13

FROM : DHS FATA PESHAWAR

FAX NO. : 0919212110

10 Sep. 2013 2:58PM P1

DIRECTORATE OF HEALTH SERVICES FATA
FATA SECRETARIAT WARSAK ROAD PESHAWAR

OFFICE ORDER.

As directed by the higher Authorities the Order issued vide this Directorate endorsement No. 14159-65/DHS/FATA/Admin: dated 04.09.2013 is hereby withdrawn.

Sd/-xx

Director Health Services
FATA Peshawar.

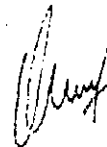
No. 14175-77 /DHS/FATA/Admin:

Dated Peshawar the 27 /09/2013.

Copy forwarded to the:-

1. Political Agent Mohmand at Ghalanai.
2. Agency Surgeon Mohmand at Ghallanai.
3. Agency Accounts Officer Mohmand.
4. Agency Surgeon FR Kohat.
5. District Accounts Officer Kohat.
6. P.S. to Secretary SSD FATA.
7. Official concerned.

Attest
Asad



Director Health Services
FATA Peshawar.

13
SSD No. 2901-

date 11/9/13 DHS

To,

1. The Additional Chief Secretary, FATA
2. The Secretary Social Sector, Department FATA

Subject: APPEAL AGAINST OFFICE ORDER
NO.14175/77/DHS/FATA/ ADMIN. DATED 04.09.2013
OF THE DIRECTOR HEALTH SERVICES FATA,
PESHAWAR WHEREBY ORDER DATED 04.09.2013
(SAME DATE) WAS WITHDRAWN FOR NO LEGAL
REASON.

A/S No 9776

dt 11-9-2013

Respected Sir:

1. That appellant was initially appointed as Junior Clerk on 19.04.1995 and since then, he is performing his duties to the best of his ability.
2. That on 20.03.2013, I was transferred from the office of Agency Surgeon Office Mohmand at Ghallani to report Health Directorate for duties.
3. That on 27.03.2013, order dated 20.03.2013 was held in abeyance till the completion of inquiry on complaint of Haji Behram Khan alleged President Mutahida Mohmand Jirga, Mohmand Agency.
4. That on 04.07.2013, I was transferred to FR, Kohat from Mohmand Agency.
5. That on 04.09.2013 after completion of inquiry by the Inquiry Committee and by exonerating from the baseless charges, I

184

was transferred from Agency Surgeon Office FR, Kohat to the office of Agency Surgeon Mohamand.

6. That on 06.09.2013, I assumed the charge of the post and till date served the said station.
7. That Director Health Services FATA, Peshawar did withdraw order dated 04.09.2013 on the said date, but infact such date was back dated into 04.09.2013 as are serving at the post of Junior Clerk in the Office of Agency Surgeon Ghallani Mohamand Agency till date. As after conclusion of the Inquiry proceeding made at the complaint of Haji Behram Khan, I was exonerated from the baseless charges by the Inquiry Committee vide recommendation dated 23.08.2013.
8. That I served the offices up to the mark without any complaint from more than 20 years.
9. That Haji Behram Khan complained against me for his illegal lust, but I did not bow to the said, so baseless complaint, so such action was taken by the said Haji.
10. That the baseless complaint of Haji Behram Khan of the Agency was Inquired into by the Inquiry Committee, but did not find any material against me, so I was exonerated from the baseless charges by the Inquiry Committee.
11. That I was repeatedly transferred from one station in short span of time to another for no legal reason, but due to ulterior motives.
12. That repeated transfers are highly condemned by the Apex Supreme Court of Pakistan on the reason that the same reduce confidence and faith of the servant in performance of the

official duties as the same always brings bad name for the department.

- 13. That I am low paid employee and the Apex Court has held time and again that low paid employee shall not be transferred to far flung areas.

It is, therefore, most humbly prayed that order No.14175-77, dated 04.09.2013 be set aside and order No.14159-65, dated 04.09.2013 be restored with all service benefits.

Applicant

Abdul Wadood

Abdul Wadood
Junior Clerk, Mohmand
Agency at Ghalani

Dated: 11.09.2013

Abdul Wadood

For Appellant
Abdul Waheed

363

233
25/1/02

GOVERNMENT OF NWFP,
ESTABLISHMENT & ADMN. DEPARTMENT,
(REGULATION WING)

Dated Peshawar, the 15th January, 2002.

Govt. of NWFP, PESH.
No. 1786
Date: 24/01/02

NOTICE CALLON.

No. SOR (ES:AD) 1(20)/98.V.III. The Governor, NWFP is pleased to convert Provincial Cadre Posts in BS-15 and below of the Provincial Health Department into the District Cadres with immediate effect on the following terms and conditions:-

- a) Permanent transfer to the Districts will be made on domicile and seniority basis.
- b) In case of the personnel of that particular district being more than the sanctioned strength, the deployment will be on the basis of seniority and the junior most over-flow will be posted temporarily to the adjacent districts till such time vacancy occurs in the District of their domicile.
- c) All such employees of the above status working in FATA but belonging to settled districts will be adjusted as per their seniority in the cadre and the over-flow will continue working in FATA till such time a vacancy occurs in their districts of domicile.
- d) The domicile of the female officials will be counted under the wedlock policy and such employees will be given one time, irreversible choice to opt for the districts of their spouse or their own. In case of spouse being a Government Employee and his transfer to another district, inter-district transfers of the female officials will be allowed subject to availability of vacancy in the desired district.
- e) The tertiary hospitals will be allowed to opt once for retention of staff of their choice which, in light of the autonomy rules, would be absorbed in their service. It will be incumbent upon the tertiary hospitals and Provincial Institutions who return such employees to carry out all subsequent recruitment at the Provincial level in line with the zonal allocation policy of the Provincial Government.
- f) Subsequent to the permanent transfer of all BS-15 and below staff to the districts, further inter-district transfers and service matters, including appointments, shall be made by the District Government in light of the "District Government Rules of Business, 2001".
- g) All cases of transfer from one district to another will be decided and ordered upon by the Director-General Health Services, albeit with the prior consultation of the Districts concerned.

No. 1786-1876
24/1/02


SECRETARY TO GOVT. OF NWFP
ESTABLISHMENT DEPARTMENT

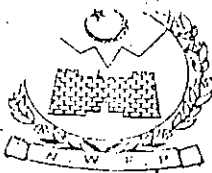
24/1

ENDST; NO.SOR.II(E&AD)1(20)/93/VOL.III, Dated Peshawar, the 15th January, 2002

Copy forwarded for information to:

1. All Administrative Secretaries to Govt. of NWFP.
2. The Secretary to Governor, NWFP.
3. The Director-General, Health Services, NWFP, Peshawar.
4. The Director, Health, FATA, NWFP, Peshawar.
5. All District Coordination Officers/Political Agents in NWFP.
6. All Executive District Officers (Health) in NWFP.
7. The Registrar, Peshawar High Court, Peshawar.
8. The Secretary, NWFP Public Service Commission, Peshawar.
9. The Director, Anti-Corruption Establishment, NWFP, Peshawar.
10. The Registrar, NWFP Service Tribunal, Peshawar.
11. All Chief Executives of Autonomous Medical Institutions in NWFP (Lady Reading Hospital, Khyber Teaching Hospital, Hayatabad Medical Complex Peshawar and Ayub Hospital Complex Abbottabad).
12. Headquarters 11 Corps, Peshawar Cantt.
13. The Manager, Govt. Stationary and Printing Department, Peshawar for publication in the next official gazette.


 (GHULAM JILANI)
 DEPUTY SECRETARY (REG.I)



3

**GOVERNMENT OF NWFP
HEALTH DEPARTMENT**

Dated the Peshawar 25th May 2009

NOTIFICATION.

No. SOI-I-III/8-90/2009 (FATA). The Governor of the North West Frontier Province (NWFP), in his capacity as agent to the President of Islamic Republic of Pakistan for FATA has been pleased to delegate powers of appointing authority to Director Health Services FATA, Political Agents and the Agency Surgeons for appointment against posts in the Health sector given hereunder:-

Sr.No.	Pay Scale	Appointing Authority
1.	Posts up to BPS-15 in the FATA Directorate.	Director of Health Services FATA.
2.	Posts in BPS-11 to BPS-15 in an Agency.	Political Agent of the concerned Agency.
3.	Posts in BPS-10 and below in an Agency.	Agency Surgeon of the concerned Agency.

**Secretary to Govt. of NWFP,
Health Department.**

Endst No. of even No and Date.

Copy forwarded for information to:

1. Secretary to Governor NWFP.
2. Principal Secretary to Chief Minister, NWFP.
3. Accountant General, NWFP.
4. Secretary to Govt. of NWFP, Establishment Department.
5. Secretary to Govt. of NWFP, Administration and Coordination Department FATA Secretariat NWFP Peshawar.
6. Director General Health Services, NWFP.
7. Director Health Services, FATA.
8. All Political Agents.
9. All Agency Surgeons in FATA.
10. PS to Chief Secretary NWFP.
11. PS to Secretary Health, NWFP.
12. Programmier, Health Department, NWFP.



~~SECRET~~
~~CONFIDENTIAL~~
~~RESTRICTED~~

[Signature]
Section Officer (H-III)

Seen
[Signature]
22/5/09





GOVERNMENT OF NWFP
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT

(Regulation Wing)

No. SOR-VI/E&AD/1-4/2008-Vol:VII
Dated Peshawar, 30th March, 2009

To

1. All Administrative Secretaries to Government of NWFP.
2. Accountant General (PR) Peshawar.

Subject: POSTING/TRANSFER FROM FATA AND VICE VERSA.

Dear Sir,

I am directed to refer to the subject noted above and to state that the Centrally Administered Tribal Areas (Employees' Status) Order 1972 (President's Order No. 13 of 1972) provides that:

"Notwithstanding anything contained in their condition of service, the employees shall from the appointed day, be the employees of the Provincial government on deputation to the Federal Government and shall work under the overall administrative control of the Provincial government, on the same terms and conditions of service as respects remuneration, leave and pension and the same rights as respects disciplinary matters or tenure of office as were applicable to them immediately before that day; provided that the employees shall not be entitled to deputation allowance for their service after the appointed day".

2. According to the Posting/Transfer Policy of the Provincial Government, the Governor NWFP and the Chief Secretary NWFP are the competent authorities for posting/transfer of Civil Servants in BS-18 and above and up to BS-17 respectively. The policy prescribes two years normal tenure of posting in FATA. Similarly, It is obligatory for all the Provincial Government employees who have been selected against Zone-I/FATA Quota to compulsorily serve in FATA for at least eighteen months.

3. It is evident from the above that employees serving in FATA are under the administrative control of the Provincial Government. However, after establishment of FATA Secretariat, it was felt imperative to have linkage between the Provincial Departments and

A Secretariat to frequent reshuffling of staff without knowledge or that Secretariat.

4. Taking cognizance of frequent posting/transfer of officers/officials from FATA to settled areas and vice versa by the respective Departments without prior consultation with the FATA Secretariat, it was emphasized on all the Administrative Departments, vide circular letter No SO(E-I) E&AD/9-126/2006/Vol-II dated 26th January, 2007 (copy enclosed) that the said Secretariat should invariably be consulted before issuing orders of Posting/Transfer of Government Servants from and to FATA. However, the FATA Secretariat have frequently conveyed their apprehensions that these instructions are not being followed, and at times a very embarrassing situation for the FATA Secretariat is created as work suffers due to shortage of staff which becomes a serious issue in the prevailing law and order situation in FATA.

5. In view of above, it is reiterated that:-

- (i) All Provincial Government Departments are directed to move proposals for posting out of an employee from FATA only when a substitute is proposed in the same case.
- (ii) On consent from the FATA Secretariat and approval of the proposal by the competent authority, the substitute to FATA would invariably give his arrival for duty before the employee being transferred out of FATA is relieved.
- (iii) Provincial Government Departments may not accept the arrival report of an employee transferred out of FATA till his proper relieving order is issued by the FATA Secretariat.
- (iv) The Accountant General (PR) is also requested that Last Pay Certificate of an employee transferred out of FATA but not relieved properly by the FATA Secretariat may not be issued in any circumstances.
- (v) Instruction issued vide letter No. SO (E-I) E&AD /9-126/2006/Vol-II dated 26th January, 2007 (quoted in Para-4 above) should be followed strictly.
- (vi) No NOC in respect of transfer from FATA to settled area issued by any Head of Line Department of FATA Secretariat should be accepted. Only those NOCs, which have been issued by the Administration &

Coordination Department, FATA Secretariat, should be considered.

- (vii) ✓ Tenure of Civil Servants must be kept in view while Issuing NOC for posting/transfer or considering postings/transfers.
- (viii) No NOC's should be issued in respect of employees in BS-1-15 who is from agency cadre and in whose respect Political Agent and Agency officer have been declared as appointing authorities.
- (ix) Persons appointed in agency cadre, if appointed in the settled areas will resign from service in FATA and will resume service in settled areas as a fresh candidate.
- (x) NOCs may be issued in respect of employees of the Provincial cadres i.e. BS-16 and above only after completion of their normal tenure and they shall not be transferred out of FATA unless their substitutes are provided simultaneously.

6. It is requested that the above Policy may be followed in letter and spirit, in further, in public interest.

Yours faithfully,


(MUHAMMAD MASOOD)
SECTION OFFICER (REG-VI)

Copy for information is forwarded to:-

Additional Chief Secretary FATA Secretariat, Warsak Road
Peshawar w.r.t Administration Department letter bearing No.FS/E/100-1
(vol-26)/1503-7 dated 26-2-2009 F/PUC.


SECTION OFFICER (REG-VI)

17.

16



**DIRECTORATE OF HEALTH SERVICES FATA
FATA SECRETARIAT WARSAK ROAD PESHAWAR**

Phone: 091-9210212, 9212207

Fax: 091-9212110

NO. 15410 / DHS/FATA/ADMN

DATED: 24/09/2013

To ✓

Mr. Abdul Wadood,
Junior Clerk Agency Surgeon Office Mohmand.

Subject:- **APPEAL AGAINST OFFICE ORDER NO. 14175/77/DHS
/FATA/ADMN DATED 04.09.2013 OF THE DIRECTOR HEALTH
SERVICES FATA, PEHAWAR WHEREBY ORDER DATED
04.09.2013 (SAME DATED) WAS WITHDRAWN FOR NO LEGAL
REASON.**

Memo:

Reference your appeal dated 11.09.2013 on the subject noted above.

The competent authority has been pleased to regret your departmental appeal on 2309.2013.

[Handwritten Signature] 24/9

Director Health Services,
FATA, Peshawar.

[Handwritten Signature]
[Handwritten Signature]

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.

S.A No. _____/2013

Abdul Wadood

Versus Secretary, Social Sector of FATA etc.

APPLICATION FOR SUSPENSION OF THE OPERATION OF
IMPUGNED ORDER DATED 4.9.2013.

RESPECTFULLY SHEWETH

1. That the applicant has filed Appeal in this Hon'ble Tribunal to-day in which no date for hearing has been fixed; yet
2. That the applicant has a prima-facie case and is hopeful of its success.
3. That if the impugned order is not suspended then the purpose of main appeal would fail.
4. That there is no hurdle to this Hon'ble Tribunal in suspending the impugned order.
5. That the facts and grounds of the main appeal be read as integral part of this application for grant of interim relief.

It is, therefore, most humbly requested that the impugned order No. 14175-77/ DHS/FATA/Admn., dated 4.9.2013 may kindly be suspended till final decision of the main appeal.


APPLICANT

Through


(SAADULLAH KHAN MARWAT)

&

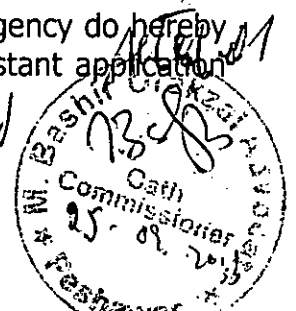
(ARBAB SAIF-UL-KAMAL)
Advocates Peshawar.

AFFIDAVIT

I Abdul Wadood son of Muhammad Azam, R/O Mohmand Agency do hereby solemnly affirm and declare on Oath that the contents of the instant application are true and correct.


DEPONENT

ATTESTED



Before the Service Tribunal, KPK, Petitioner

Abdul Wadood VS Secy, Fata etc.

25/9/13

Application for early hearing being transfer matter.

- 1- That the subject Appeal is filed in this honorable tribunal for disposal.
- 2- That the subject matter requires early hearing as being transfer matter, petitioner has not yet relinquished the charge while on other hand the department is stressing upon the same.

It is therefore most humbly requested that an early date for hearing be fixed and oblige.

Applicant

through Advocate

Saadullah Khan Marri

Musab Sijul Khan

25/9/13

Before The Service Tribunal, KPIC, Peshawar

Abdul Wadood vs Secretary Fata etc

ANO 1367/13

Application for Suspension of the operation of Impugned
order DT- 4/9/2013

Case file
requisitioned

Respectfully Sheweth,

- 1- That the applicant has filed appeal in this honourable tribunal and is pending adjudication in 13/10/13 is fixed for hearing
- 2- That the applicant has got a Prima facie case and is hopeful about its success.
- 3- That the applicant has not yet relinquished the charge and if the impugned order is not suspended then applicant will suffer irreparable loss.
- 4- That the balance of convenience also lies in favour of the applicant.

It is therefore most humbly prayed that on acceptance of this application, the impugned order no 14175-77/DHS/Fata/Admin + date 4/9/2013 may kindly be suspended till final decision of the main appeal.

DT 7/10/13

Applicant
Thurais Saadullah Khan
Admin Office
Armed Forces
Karat

363

233
25/1/02

GOVERNMENT OF NWFP,
ESTABLISHMENT & ADMN. DEPARTMENT.
(REGULATION WING)

Govt. of NWFP, PESH.
No. 678
Date: 24/1/02

Dated Peshawar, the 15th January, 2002.

NOTIFICATION.

No. SOR. II (E&AD) (20)/98.V.III. The Governor, NWFP is pleased to convert Provincial Cadre Posts in BS-15 and below of the Provincial Health Department into the District Cadres with immediate effect on the following terms and conditions:-

- a) Permanent transfer to the Districts will be made on domicile and seniority basis.
- b) In case of the personnel of that particular district being more than the sanctioned strength, the deployment will be on the basis of seniority and the junior most over-flow will be posted temporarily to the adjacent districts till such time vacancy occurs in the District of their domicile.
- c) All such employees of the above status working in FATA but belonging to settled districts will be adjusted as per their seniority in the cadre and the over-flow will continue working in FATA till such time a vacancy occurs in their districts of domicile.
- d) The domicile of the female officials will be counted under the wedlock policy and such employees will be given one time, irreversible choice to opt for the districts of their spouse or their own. In case of spouse being a Government Employee and his transfer to another district, inter-district transfers of the female officials will be allowed subject to availability of vacancy in the desired district.
- e) The tertiary hospitals will be allowed to opt once for retention of staff of their choice which, in light of the autonomy rules, would be absorbed in their service. It will be incumbent upon the tertiary hospitals and Provincial Institutions who return such employees to carry out all subsequent recruitment at the Provincial level in line with the zonal allocation policy of the Provincial Government.
- f) Subsequent to the permanent transfer of all BS-15 and below staff to the districts, further inter-district transfers and service matters, including appointments, shall be made by the District Government in light of the "District Government Rules of Business, 2001".
- g) All cases of transfer from one district to another will be decided and ordered upon by the Director-General Health Services, albeit with the prior consultation of the Districts concerned.

No. 1786-1876 / 2002
25/1/02

SECRETARY TO GOVT. OF NWFP
ESTABLISHMENT DEPARTMENT

ENDST; NO.SOR.II(E&AD)I(20)/93/VOL.III, Dated Peshawar, the 15th January, 2002.

Copy forwarded for information to:

1. All Administrative Secretaries to Govt. of NWFP.
2. The Secretary to Governor, NWFP.
3. The Director-General, Health Services, NWFP, Peshawar.
4. The Director, Health, FATA, NWFP, Peshawar.
5. All District Coordination Officers/Political Agents in NWFP.
6. All Executive District Officers (Health) in NWFP.
7. The Registrar, Peshawar High Court, Peshawar.
8. The Secretary, NWFP Public Service Commission, Peshawar.
9. The Director, Anti-Corruption Establishment, NWFP, Peshawar.
10. The Registrar, NWFP Service Tribunal, Peshawar.
11. All Chief Executives of Autonomous Medical Institutions in NWFP (Lady Reading Hospital, Khyber Teaching Hospital, Hayatabad Medical Complex Peshawar and Ayub Hospital Complex Abbottabad).
12. Headquarters II Corps, Peshawar Cantt.
13. The Manager, Govt. Stationary and Printing Department, Peshawar for publication in the next official gazette.



(GHULAM JILANI)
DEPUTY SECRETARY (REG.I)

BEFORE THE SERVICES TRIBUNAL
KHYBER PAKHTUNKHWA, PESHAWAR

Appeal No. 1367/2013

Mr. Abdul Wadood

V/S

Secretary (SSD) (FATA) & Others

REPLY OF APPLICATION

Preliminary objections

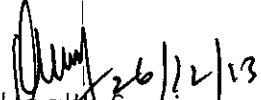
1. That the petitioner has no cause of action/locus standi to file the present petition.
2. That the petition is estopped by his own conduct to file the instant petition.
3. That this Honourable Service Tribunal has got no jurisdiction to entertain the instant petition.
4. That the instant petition is bad for mis joinder & non-joinder of parties.
5. That the present petition is barred by law.
6. That the petition is not maintainable in its present form.
7. That the present petition is bad in its present form, hence not maintainable and liable to be dismissed.
8. That the present petition is against the provision of S. 56 (d) of Specific Relief Act.
9. That, the applicant does not provide the requirement of interim relief.

Respectfully Sheweth:

1. No Comments.
2. Incorrect, there is neither a prima-facie nor the hope of success of the instant appeal.
3. Incorrect, suspension of the order will not only encourage such arrogant officials but also badly suffer the function of the department.
4. Incorrect, as stated above.
5. No comments.

It is therefore, most humbly prayed that on acceptance of this reply instant application filed by the petitioner/appellant for suspension of operation of order No. 14175-77/DHS/FATA/Adman date 04-09-2013 may pleased be dismissed.

RESPONDENT


 Director Health Services
 (FATA), Peshawar

BEFORE THE SERVICES TRIBUNAL KPK, PESHAWAR.

ANo 1367/13

sub ap
with
case
file.

Abdul wadoodVS..... Secretary FATA etc.

APPLICATION FOR HEARLY HEARING THE APPEAL/STAY APPLICATION

Respectfully Sheweth:-

1. That the applicant submitted the subject appeal alongwith application for suspension of the operation of the impugned order dated 4.9.2013.

27/9/13

2. That the appeal come up for hearing today i.e 9.9.2013 which was admitted to regular hearing but with regard to the suspension of the impugned order, the learned member ~~stated~~ ^{posed no order of} status quo/suspension.

Be placed
before the
Bench as here
appeal is
pendin

3. That as per the judgement of the apex court that the Tribunal is a Civil court and has got all powers regarding status quo/suspension of the operation of the impugned order

4. That for the purpose the appeal was adjourned to 11.10.13 ^{27/9/13} with notice to respondents.

5. That for the ~~pur~~ subject matter requires order of status quo/suspension in one way or the other, so requires urgent hearing.

It is, therefore, most humbly requested that the subject matter be listed for hearing as soon as possible.

Dated:- 26.9.2013

Abdul Wadood
Appellant/applicant

Through

(ARBAB SAIF UL KAMAL)
ADVOCATE PESHAWAR.

Contents of Instate Application are true and correct. Affidavit is stated on Oath. *Abdul Wadood* Applicant Department



Arbab Saif ul Kamal
Advocate

BEFORE THE SERVICES TRIBUNAL
KHYBER PAKHTUNKHWA, PESHAWAR

Appeal No. 1367/2013

Mr. Abdul Wadood

..... Appellant

Versus

Secretary Social Sectors (FATA) & Others

..... Respondents

Para wise joints comments on behalf of respondent No. 1- 3.

Preliminary objections

1. That the appellant has no cause of action/locus standi to file the present appeal.
2. That the appellant is estopped by his own conduct to file the instant appeal.
3. That this Honourable Service Tribunal has got no jurisdiction to entertain the instant appeal.
4. That the instant appeal is bad for mis joinder & non-joinder of parties.
5. That the present appeal is barred by law.
6. That the appeal is not maintainable in its present form.
7. That the present appeal is bad in its present form, hence not maintainable and liable to be dismissed

Respectfully Sheweth;

1. Correct, to the extent of official record.
2. Correct, to the extent of official record.
3. Correct, to the extent of official record.
4. Correct, to the extent that the orders was issued with the approval of the competent authority.
5. Correct, to the extent that in the same allegations the Agency Surgeon Mohmand has already been transferred out of Mohmand Agency. **(Annex-A)**

(2)

6. Correct, but the order of his transfer back to Ghallanai was cancelled on the same day by the directives of the competent authority.
7. Incorrect, the order was actually withdrawn on 04-09-2013, but received by the appellant late due to lengthy process of communication.
8. Correct, the appeal of the appellant was regretted by the competent authority due to his involvement in serious allegation.


ON GROUNDS

- A. Incorrect, subject to proof hence denied.
- B. Incorrect, as mentioned in para-7 above.
- C. Incorrect. The competent authority disagreed with the recommendation of inquiry committee and returned the same to the committee for reconsideration.
- D. Incorrect, the transfer of the appellant has been issued in light of the complaints.
- E. Incorrect, the allegation leveled by the complainant against the appellant has already been proved.
- F. Incorrect, as mentioned in para-E above.
- G. Incorrect, the transfer order of the appellant was modified on administrative grounds.
- H. Incorrect, repeated transfers were made by the Department on administrative grounds but the appellant did not report to any of station, so the question that the same reduce confidence and faith & efficiency of the servant in performance of the official duties does not arise.
- I. Incorrect, the post is available in the office of Agency Surgeon FR Kohat and no malafide intention is involved.

- J. Incorrect, the appellant has been transferred to nearest station
i.e. FR Kohat and not to far flung area of FATA.
- K. Incorrect.

It is therefore most humbly prayed that the appeal in hand is
devoid of merits/legal footing, may be dismissed with cost.

Respondent No. 03


Director Health Services,
FATA Peshawar
B
2/11/14

Respondent No. 02


Additional/Chief Secretary
FATA Secretariat, Peshawar

Respondent No. 01


Secretary (SSD)
FATA Secretariat, Peshawar

**DIRECTORATE OF HELATH SERVICES FATA
FATA SECRETARIAT WARSACK ROAD PESHAWAR.**

OFFICE ORDER

On the recommendation of the inquiry committee, the competent authority has been pleased to impose ban for the period of **Ten Years** for posting of Dr. Muhammad Daud Khan Ex-Agency Surgeon Mohmand and Mr. Nisar Khan Ex-Senior Clerk, in Mohmand Agency with recovery of the misappropriated Govt: money to be calculated by the Agency Surgeon Mohmand from the officer/official concerned and to be deposited into Govt: treasury.

The competent authority has further been pleased to pay the genuine pending rent of CHCs, if any, to the concerned owners after proper verification by the Agency Surgeon.

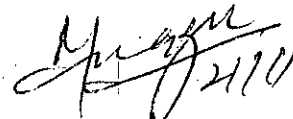
.....Sd.....

Director Health Services,
FATA, Peshawar.

NO. 18957-64/DHS/FATA/Admn Dated 21/11/2013

Copy forwarded to the:-

1. Political Agent Mohmand Agency.
 2. Deputy Director (Admn) DHS FATA.
 3. Agency Surgeon Mohmand Agency.
 4. Agency Accounts Officer Mohmand at Ghallanai.
 5. PS to Secretary Social Sectors FATA w/r to his letter FS/SO/(H)/SSD/1-9/2013/1648-50 dated 23.10.2013
 6. Officer/Official concerned.
- For information and necessary action.


Director Health Services,
FATA, Peshawar.

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A. No. 1367/2013

Abdul Wadood

Versus

Secretary & others

REPLICATION

Respectfully Sheweth,

PRELIMINARY OBJECTION.

All the 7 preliminary objections are illegal and incorrect. No reason in support of the same is ever given as to why appellant has no cause of action / locus standi, estoppel, without jurisdiction, bad for mis-joinder and non-joinder of necessary parties, barred by law, not maintainable and bad in present form.

ON FACTS


- 1-4. Not commented upon by the respondents as the same was termed to official record and admitted as correct.
5. Admitted correct by the respondents.
6. As above.
7. Not correct. The para of the appeal is correct.
8. As above.

G R O U N D S:


- a-b Not correct. The proof is available on the record.
- c. Not correct. As nothing wrong was detected, so appellant was exonerated from baseless charges.
- d. Not correct. When complaint was not proved in inquiry, then order of transfer became meaningless and illegal.

- e. Not correct. The ground of the appeal is correct. The allegation leveled against appellant was not proved.
- f. Not correct. The ground of the appeal is correct.
- g. As above.
- h. Not correct. Administrative ground was not available to the authority, so his transfer order was not per the mandate of law.
- i. Not correct. The ground of the appeal is correct. Appellant reported the matter to the office but he was returned back due to none availability of original post of Junior Clerk.
- j. Not correct. FR, Kohat is far flung area than the post / station of appellant.
- k. Not correct. The ground of the appeal is correct.


It is, therefore, most humbly prayed that the appeal be accepted as prayed for.


Appellant

Through


Saadullah Khan Marwat

Dated: .02.2014


Arbab Saif Ul Kamal

Miss Rubina Naz
Advocates,

AFFIDAVIT

I, Abdul Wadood S/o Muhammad Azam, do hereby solemnly affirm and declare that contents of **Replication** are true and correct to the best of my knowledge and belief.


DEPONENT

BEFORE THE KPK, SERVICE TRIBUNAL, PESHAWAR

S.A. No. 1367/2013

Abdul Wadood

Versus

Secretary & others

REPLICATION

Respectfully Sheweth.

PRELIMINARY OBJECTION.

All the 7 preliminary objections are illegal and incorrect. No reason in support of the same is ever given as to why appellant has no cause of action / locus standi, estoppel, without jurisdiction, bad for mis-joinder and non-joinder of necessary parties, barred by law, not maintainable and bad in present form.

ON FACTS

- 1-4. Not commented upon by the respondents as the same was termed to official record and admitted as correct.
5. Admitted correct by the respondents.
6. As above.
7. Not correct. The para of the appeal is correct.
8. As above.

GROUNDS:

- a-b Not correct. The proof is available on the record.
- c. Not correct. As nothing wrong was detected, so appellant was exonerated from baseless charges.
- d. Not correct. When complaint was not proved in inquiry, then order of transfer became meaningless and illegal.

- e. Not correct. The ground of the appeal is correct. The allegation leveled against appellant was not proved.
- f. Not correct. The ground of the appeal is correct.
- g. As above.
- h. Not correct. Administrative ground was not available to the authority, so his transfer order was not per the mandate of law.
- i. Not correct. The ground of the appeal is correct. Appellant reported the matter to the office but he was returned back due to none availability of original post of Junior Clerk.
- j. Not correct. FR, Kohat is far flung area than the post / station of appellant.
- k. Not correct. The ground of the appeal is correct.

It is, therefore, most humbly prayed that the appeal be accepted as prayed for.

Through

Appellant

Saadullah Khan Marwat

Dated: .02.2014

Arbab Saif Ul Kamal

Miss Rubina Naz
Advocates,

AFFIDAVIT

I, Abdul Wadood S/o Muhammad Azam, do hereby solemnly affirm and declare that contents of **Replication** are true and correct to the best of my knowledge and belief.

DEPONENT

DIRECTORATE OF HEALTH SERVICES FATA
FATA SECRETARIAT WARSAK ROAD PESHAWAR.

OFFICE ORDER

As per court decision, the transfer order of Mr. Abdul Wadood Junior Clerk from Agency Surgeon Office Mohmand to RHC Ekka Ghund issued by the Agency Surgeon Mohmand at Ghallanai vide order No. 2720-23/ASM dated 26.09.2014 is hereby cancelled.

The Agency Surgeon Mohmand is directed to avoid such orders of the official concerned till final decision of the case.

Sd.....
Director Health Services,
FATA, Peshawar.

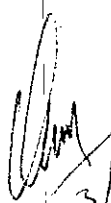
NO. 19040-42/DHS/FATA/Admn

Dated 3 / 10 / 2014

Copy forwarded to the:-

1. Agency Surgeon Mohmand.
2. Registrar Service Tribunal Khyber Pakhtunkhwa Peshawar.
3. Official concerned.

For information and necessary action.


3/10/14
Director Health Services,
FATA, Peshawar

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 753 /ST

Dated 20 / 05 / 2015

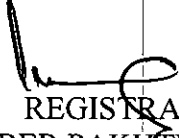
To

The Director Health Services,
(FATA) Secretariat, Warsak Road Peshawar.

Subject: - APPEAL NO. 1367/2013 ABDUL WADOOD VS SECRETARY SOCIAL
SECTOR OF FATA PESHAWAR AND OTHERS.

I am directed to forward herewith a certified copy of Judgement dated 15.05.2015 passed
by this Tribunal on subject appeal for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.