


10.02.2015

Appellant in person present. Counsel for the appellant is not in attendance due to strike of the Bar. Adjourned for preliminary hearing before S.B to 24.02.2015.

24.02.2015

Counsel for the appellant present. Requested for adjournment. Last opportunity granted. Adjourned to 13.03.2015 for preliminary hearing before S.B.

  
Chairman.

  
Chairman

13.03.2015

Counsel for the appellant present. Learned counsel for the appellant argued that due to issuance of fresh transfer order the appellant has preferred fresh service appeal No. 155/2015 and would not press the instant appeal which is, therefore, dismissed as withdrawn. File be consigned to the record.

ANNOUNCED  
13.03.2015

  
Chairman

13-03-15

6.

05.11.2014

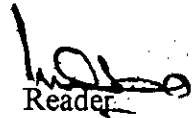
Counsel for the appellant and Mr. Kabirullah Kattak, Asst. AG for the respondents present. The learned counsel for the appellant submitted before the Court that the instant appeal has been partly heard by worthy Chairman and requested that it may be transferred to the same Bench for further arguments. This case be put up to the Chairman for further proceedings/order. Parties are directed to appear before the Chairman on 10.11.2014.



Member

10.11.2014

No one is present on behalf of appellant. Mr. Muhammad Adeel Butt, AAG for the respondents present. The Tribunal is incomplete. To come up for preliminary hearing on 09.12.2014.



Reader

09.12.2014

Clark of counsel for the appellant and Mr. Muhammad Adeel Butt, AAG for the respondents present. The Tribunal is incomplete. To come up for preliminary hearing on 30.01.2015.



Reader.

7

30.01.2015

Appellant in person present. Counsel for the appellant is not in attendance. Last opportunity granted. To come up for preliminary hearing before this Bench on 10.02.2015.

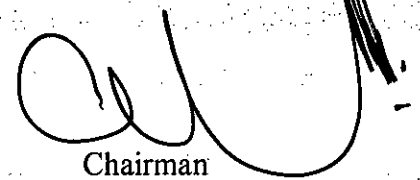


Chairman

3 16.10.2014

Appellant with counsel present. The learned counsel for the appellant adopted the arguments addressed by the learned counsel for the appellant in service appeal No. 1225/2014.

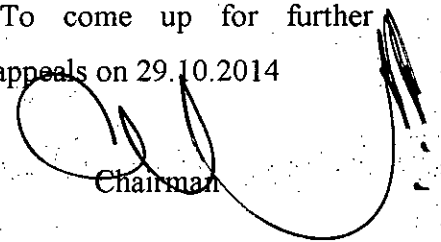
In the light of detailed order in the said service appeal, a pre-admission notice be issued to the learned AAG as well as to the Secretary Administration, Coordination & Infrastructure FATA Secretariat, Peshawar (respondent No. 1) to report about the present status/stage of the departmental appeal preferred by the appellant. In order to ward off the possibility of further legal/administrative complications, the interim relief already granted to the appellant by the Hon'ble High Court shall continue to remain operative in the meantime. To come up for arguments, as above, on 28.10.2014.



Chairman

4 28.10.2014

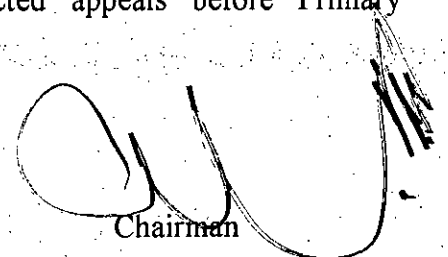
Counsel for the appellant and Mr. Muhammad Adeel Butt, AAG for the respondent-department present. To come up for further proceedings/arguments alongwith connected appeals on 29.10.2014



Chairman

5 29.10.2014

Neither appellant nor counsel for the appellant present. Mr. Muhammad Adeel Butt, AAG is present. To come up for further proceedings/arguments alongwith connected appeals before Primary Bench on 5.11.2014.



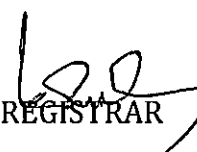
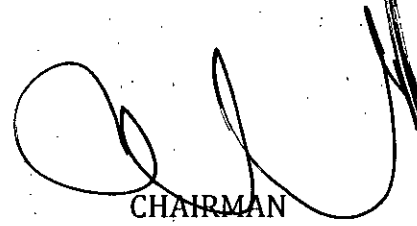
Chairman

Form- A

FORM OF ORDER SHEET

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

Case No. 1231/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
<p>1</p> <p>2</p>	<p>15/10/2014</p> <p>15/10/2014</p>	<p>The present appellant initially went in Writ Petition before the Hon'ble Peshawar High Court and the Hon'ble High Court vide its order dated 02.10.2014 treated the Writ Petition into an appeal and sent the same to this Tribunal for decision in accordance with law. The same 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> <p>This case is entrusted to Primary Bench for preliminary hearing to be put up there on 16.10.2014 as per order of the Hon'ble High Court.</p> <p style="text-align: right;">               CHAIRMAN         </p>

**THE  
PESHAWAR HIGH COURT  
PESHAWAR**



**Ph: No. 091-9210149-158**  
**Ext: No. 364**

No. 17533 /Judl:

Dated Peshawar the 14/10 2014

**From**

The Additional Registrar (J),  
Peshawar High Court,  
Peshawar.

853  
15-10-14

**To**

The Chairman,  
KPK Service Tribunal,  
Peshawar.

**Subject**

**Writ Petition No. 2762-P/2014 with Interim Relief.**

**Ghulam Dastagir s/o Badshah Khan**

-----Petitioner

**Versus**

**Secretary Admn FATA & others**

-----Respondents

\*\*\*\*\*

**Memo:**

I am directed to send herewith the titled case in original alongwith all annexures & copy of judgment dated 02-10-2014, passed by Division Bench of this Court, for compliance. **(Writ Petition is attached).**

**ADDITIONAL REGISTRAR (J)**

13/10/14

**Endst: No. & even dated:**

**Copy forwarded to:**

1. The Secretary Admn, Coordination & Infrastructure FATA, FATA Secretariat, Warsak Road, Peshawar.
2. The Addl: Chief Secretary FATA, FATA Secretariat, Warsak Road, Peshawar.

**ADDITIONAL REGISTRAR (J)**

**Encl:**

**Copy of judgment.**

# PESHAWAR HIGH COURT, PESHAWAR

## FORM OF ORDER SHEET

Court of.....

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

Serial No. of Order of Proceedings	Date of Order of Proceedings	Order or other Proceedings with Signature of Judge.
1	2	3
	<b>ORDER</b> 02.10.2014	<p><u>Writ Petition No.2762-P/2014 with Interim Relief.</u></p> <p>Present: Mr. Muhammad Farooq Afridi, Adv: for Ghulam Dastagir, petitioner.</p> <p>*****</p> <p><u>MAZHAR ALAM KHAN MIANKHEL, C.J.-</u></p> <p>Ghulam Dastagir, petitioner herein, through the instant constitutional petition, has asked for the issuance of an appropriate writ declaring that the order dated 18.09.2014 of respondent No.3, whereby, he has been transferred from the post of Head Clerk, C&amp;W FATA Division Orakzai at Hangu and has been posted as Assistant, office of the Superintending Engineer, Southern C&amp;W FATA Circle, Peshawar, being nullity in the eye of law, is of no effect whatsoever.</p> <p>2. We have gone through the available record carefully and considered the submissions made by the learned counsel for the petitioner.</p>

3. We, in the light of our judgment / order of even date, passed in the identical Writ Petition No.2980-P/2014, titled Dr. Muhammad Ali Chohan vs. Government of KPK, in the instant case, too, without dilating upon the merits of the case and without preempting the jurisdiction of the Service Tribunal, only by confining ourselves upto the interim relief, send the matter of the petitioner to the KPK Service Tribunal / Chairman for decision strictly in accordance with law and for considering the competency / maintainability of the appeal and also direct the petitioner to appear there on 16<sup>th</sup> instant for the purpose. Only till then, the impugned order dated 18.09.2014 shall remain suspended and not thereafter. This writ petition is disposed of accordingly.

Announced.  
02. 10. 2014

*M. Fayaz*  
CHIEF JUSTICE

*Fayaz*  
JUDGE

(Fayaz)

*M. Fayaz*  
4/10/14

**BEFORE THE PESHAWAR HIGH COURT, PESHAWAR**

Service Appeal No. 1231/2014

Writ Petition NO. 2762 P 2014

Ghulam Dastagir ..... **Petitioner**

**VERSUS**

Secretary Administration,  
Coordination & Infrastructure & others..... **Respondents**

**INDEX**

<u>S.No</u>	<u>Description of Documents</u>	<u>Annex</u>	<u>Pages</u>
1.	Writ Petition		1-4
2.	Affidavit		5
3.	Addresses of Parties		6
4.	Copies of posting orders dated 16.05.2014 and 18.09.2014	"A" & "B"	7-9
5.	Copies of the Order-Sheets	"C"	10-19
6.	Copies of order and judgment	"D" & "E"	20-34
7.	Court Fee		35-37
8.	Wakalatnama		38

FILED TODAY

Deputy Registrar Through

24 SEP 2014

Petitioner

**MUHAMMAD FAROOQ AFRIDI**

Advocate

High Court, Peshawar

Cell No.0300-5838546

Dated: 24.09.2014



**BEFORE THE PESHAWAR HIGH COURT, PESHAWAR**

*Service Appeal No. 1231/2014*

Writ Petition NO. 2762/2014

Ghulam Dastagir S/o Badshah Khan,  
Head Clerk, C&W, FATA Division, Orakzai at Hangu....**Petitioner**

**VERSUS**

1. Secretary Administration, Coordination & Infrastructure  
FATA Secretariat Warsak Road, Peshawar
2. Additional Chief Secretary FATA,  
FATA Secretariat Warsak Road, Peshawar
3. Chief Engineer FATA, (Works & Services Department)  
FATA, Secretariat Warsak Road, Peshawar
4. Maqboollah Jan  
Accounts Clerk/Head Clerk, C&W FATA,  
FATA Division, FR, Kohat ..... **Respondents**

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

FILED TODAY  
Deputy Registrar  
24 SEP 2014

**Respectfully Sheweth:-**

1. That the petitioner is serving as Head Clerk C&W FATA  
Division at Hangu to the best satisfaction of his superior.

2. That petitioner was posted in Orakzai at Hangu on 16.05.2014 where he was serving dedicatedly that on 18.09.2014 his posting order was issued by respondent No.3 in violation of posting /transfer policy within a span of four months. (Copies of posting orders dated 16.05.2014 and 18.09.2014 are attached as annexure "A" & "B" respectively).
3. That the impugned posting order dated 18.09.2014 is illegal, without jurisdiction and without lawful authority.
4. That impugned posting order has been issued in violation of posting/transfer policy where normal tenure for posting is three years but petitioner posting order has been issued in a short span of four months.
5. That the impugned posting order is the result of political influence, favoritism and ulterior motives as petitioner was posted at the place of respondent No.4 about four months back and after four months respondent No.4 replaced the same order by posting himself to the same station through political influence and ulterior motives.
6. That the impugned transfer order passed by respondent No.3 in a span of four months indiscriminately without rhyme or reason shows malafide on the part of respondents and is against the proclaimed policies.

7. That the impugned posting order is arbitrary, against the canons of justice, equity and fair play, hence, liable to be set

Deputy Registrar

24 SEP 2014

8. That the petitioner has served the department dedicatedly. Besides, his children have been settled and are studying in the district Kohat.
9. That the petitioner has not been treated in accordance with the law and has been discriminated against.
10. That the impugned order is contrary to the judgment of Supreme Court of Pakistan (PLD 2013 SC-195) where the law has been clearly laid down on the subject.
11. That impugned order glaringly violates the rule of law and public policy and therefore, needs to be struck down.
12. That the petitioner has left with no other remedy except to approach this Hon'ble Court through the instant writ petition as the service tribunal is not functioning. (Copies of the order-sheets are attached as Annexure "C").
13. That in similar circumstances this Hon'ble Court has interfered and has set aside the premature posting/transfer orders. (Copies of order and judgment are attached as Annexure "D" & "E").

It is, therefore, respectfully prayed that on acceptance of this writ petition, the impugned posting order dated 18.09.2014 may kindly declared as illegal, without jurisdiction and without lawful authority, for ulterior motives, malafide and political influence.

FILED TODAY  
Deputy Registrar  
24 SEP 2014

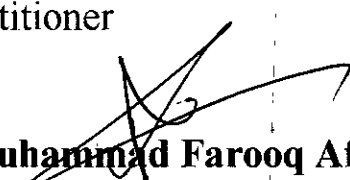
Any other order deemed appropriate to this Honorable Court in the above mentioned circumstances. The petitioner may be allowed to put forward any other document/argument at the time of hearing of writ petition.

**INTERIM RELIEF:-**

By way of interim relief, it is respectfully prayed that the impugned order dated 18.09.2014 may kindly be suspended till final disposal of the writ petition as the petitioner has got a good prima facie case.

Petitioner

Through

  
**Muhammad Farooq Afridi**  
Advocate  
High Court, Peshawar

Dated: 24.09.2014

**CERTIFICATE:**

As per instruction of my client, no such like Petition has earlier been filed by the petitioner before this Hon'ble Court on the subject matter.

  
**ADVOCATE**

**List of Books:-**

1. Constitution of Islamic Republic of Pakistan, 1973.
2. Law books according to the need.

FILED TODAY

Deputy Registrar

24 SEP 2014

  
**ADVOCATE**

BEFORE THE PESHAWAR HIGH COURT PESHAWAR

Writ Petition No.

27627 of 2014

Ghulam Dastagir.....Petitioner

VERSUS

Secretary Administration, Coordination & infrastructure  
FATA Secretariat & others.....Respondents

**AFFIDAVIT**

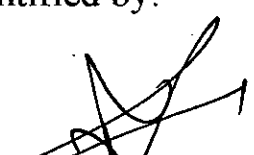
I, Ghulam Dastagir S/o Badshah khan, Head Clerk, C&W, FATA Division, Orakzai at Hangu, do hereby solemnly affirm and declare on oath that the contents of the accompanying **Writ petition** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court.

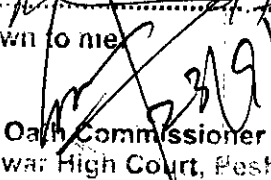


DEPONENT

CNIC No: 14301-8939925-3

Identified by:

  
**Muhammad Farooq Afridi**  
Advocate, Peshawar

No. <u>2896</u> Certified that the above was verified on solemnly affirmation before me in office, this <u>23rd</u> day of <u>Sep</u> 200 by <u>Ghulam Dastagir</u> s/o <u>Badshah Khan</u> <u>Hangu</u> who was identified by <u>Muhammad Farooq Afridi AO</u> Who is personally known to me   Oath Commissioner Peshawar High Court, Peshawar.
--

FILED TODAY  
Deputy Registrar  
24 SEP 2014

**BEFORE THE PESHAWAR HIGH COURT, PESHAWAR**

Writ Petition NO. 27627/2014

Ghulam Dastagir ..... **Petitioner**

**VERSUS**

Secretary Administration,  
Coordination & Infrastructure & others..... **Respondents**

**ADDRESSES OF PARTIES**

**PETITIONER**

Ghulam Dastagir S/o Badshah Khan,  
Head Clerk, C&W, FATA Division, Orakzai at Hangu

**RESPONDENTS**

1. Secretary Administration, Coordination & Infrastructure  
FATA Secretariat Warsak Road, Peshawar
2. Additional Chief Secretary FATA,  
FATA Secretariat Warsak Road, Peshawar
3. Chief Engineer FATA, (Works & Services Department)  
FATA, Secretariat Warsak Road, Peshawar
4. Maqboollah Jan  
Accounts Clerk/Head Clerk, C&W FATA,  
FATA Division, FR, Kohat

FILED TODAY  
Deputy Registrar  
24 SEP 2014

Through

Petitioner

**Muhammad Farooq Afridi**  
Advocate  
High Court, Peshawar

Dated: 24.09.2014



OFFICE OF THE CHIEF ENGINEER (FATA)  
WORKS & SERVICES DEPARTMENT  
PESHAWAR

No. 1029 / 12/11-E  
Dated Peshawar the, 16 / 05/2014

OFFICE ORDER

Consequent upon their promotion and placement of services at the disposal of this office vide Chief Engineer @, C&W department Khyber Pakhtunkhwa office order No. 177-E/222/C.E/C&WD, No. 177-E/223/C.E/C&WD, No. No. 177-E/224/C.E/C&WD and No. 177-E/225/C.E/C&WD, dated 6.5.2014, the following Posting/Transfer amongst the Ministerial establishment is hereby ordered in the public interest.

S.No	Name & Designation	From	To	Remarks
1.	Mr. Ghulam Dastagir Assistant	Waiting for posting	Head Clerk office of the Executive Engineer, C&W FATA Division Orakzai	Vice No. 4
2	Mr. Muhammad Rafique Assistant	Waiting for posting	Head Clerk office of the Executive Engineer, Highway FATA Division NWA Miranshah	Against the vacant post
3.	Mr. Rashid Habib	Waiting for posting	Accounts Clerk office of the Superintending Engineer, Southern C&W FATA Circle Peshawar	Against the vacant post w.e.f 8.5.2014
4.	Mr. Maqboolullah Jan	Head Clerk office of the Executive Engineer, C&W FATA Division Orakzai	Accounts Clerk, office of the Executive Engineer, C&W FATA Division FR Kohat/Peshawar at Kohat	Against the vacant post
5	Mr. Rozi Gul	Waiting for posting	Accounts Clerk Highway FATA Division Bajaur	Against the vacant post
6.	Mr. Abdullah Jan	Waiting for posting	Accounts Clerk office of the Chief Engineer (FATA), W&S department Peshawar	Against the vacant post.
7	Mr. Muhammad Tariq	Waiting for posting	Computer Operator office of the Executive Engineer Building FATA Division SWA	Against the vacant
8	Mr. Amanullah	Waiting for posting	Executive Engineer, C&W FATA Division FR Kohat/Peshawar at Kohat	Against the vacant post
9	Mr. Muhammad Riaz	Waiting for posting	Senior Clerk office of the Chief Engineer (FATA) W&S Department Peshawar	Against the vacant post 7.5.2014
10	Mr. Muhammad Zulqarnain Shah	Waiting for posting	Junior Clerk office of the Executive Engineer Highway FATA Division SWA Tank	Against the vacant post
11	Mr. Badshah Wazir	Waiting for posting	Junior Clerk office of the Executive Engineer Building FATA Division Bajaur	Against the vacant post
12	Mr. Aziz Khan	Waiting for posting	Junior Clerk office of the Executive Engineer Highway FATA Division Khyber Agency	Against the vacant post
13	Mr. Fayaz Ahmed	Junior Clerk office of the Executive Engineer, Building FATA Division SWA	Junior Clerk office of the Chief Engineer (FATA) W&S Department Peshawar	Against the vacant post

(Engr: Muhammad Asaf Khan)  
Chief Engineer



B 9

**OFFICE OF THE CHIEF ENGINEER (FATA)  
WORKS & SERVICES DEPARTMENT  
PESHAWAR**

No. 421 / 2 / 11-E

Dated Peshawar the, 18/09/2014

**OFFICE ORDER**

The following posting/transfer of Ministerial Establishment is hereby ordered in the public interest with immediate.

S.#	Name	From	To	Remarks
1	Mr. Ghulam Dastagir	Head Clerk, C&W FATA Division Orakzai at Hangu	Assistant office of the Superintending Engineer, Southern C&W FATA Circle Peshawar	Against the vacant post
2	Mr. Maqboollah Khan	Accounts Clerk C&W FATA Division FR Kohat/Peshawar	Head Clerk, C&W FATA Division Orakzai at Hangu	Vice No.1

(Engr. Muhammad Asaf Khan)  
Chief Engineer

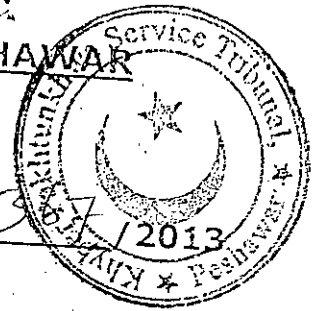
Copy to:-

1. The Chief Engineer Center C&W department Peshawar
2. The Superintending Engineer Southern C&W FATA Circle Peshawar
3. The Addl. Accountant General P.R Sub office Peshawar
4. The Executive Engineer C&W FATA Division FR Kohat/Peshawar
5. The Executive Engineer C&W FATA Division Orakzai at Hangu w/r to his No. 2883/3-E, dated 17.9.2014 for information.
6. The The District Accounts Kohat
7. The Agency Accounts Officer Orakzai
8. Official concerned.

  
Chief Engineer



BEFORE KPK SERVICE TRIBUNAL PESHAWAR



S.A No. 13/2013

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

E.W.F. PROVIDED  
14/04  
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.

7/9/13

⇔<=>⇔<=>⇔<=>⇔<=>⇔

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")

EXAMINER  
 Khyber Pakhtunkhwa  
 Service Tribunal  
 Peshawar

11

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

EXAMINER  
 SUPERVISOR  
 11/09/2013

- 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-

13

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

*As Appellant*  
Appellant  
*Saad Ullah Khan Marwat*  
Saad Ullah Khan Marwat  
&  
*Arbab Saiful Kamal*  
Arbab Saiful Kamal  
&  
*Miss Rubina Naz,*  
Miss Rubina Naz,  
Advocates.

**Certified to be true copy**  
*[Signature]*  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar

Date of Presentation of Application 23-9-2014  
Number of Cases 1600  
Copying Charges 10  
Urgent 2  
Total 12  
Name of Copy [Redacted]  
Date of Completion of Copy 23-9-2014  
Date of Delivery of Copy 23-9-2014

ee  
P

14



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.

*SDP*  
*Members*

*SDP*  
*Members*

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.

*SDP*

*SDP*

10.6.2014

MEMBER 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 for arguments on 23.7.2014. Till then status quo is extended.

*SDP*  
*Members*

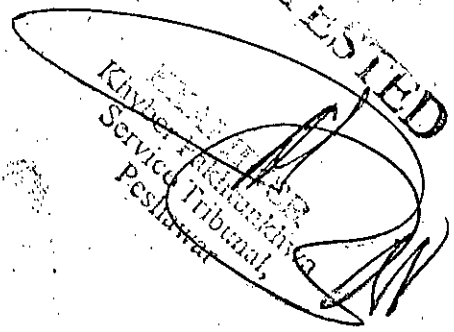
*SDP*  
*Members*

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.

*SDP*  
*Members*

ACCEPTED



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.

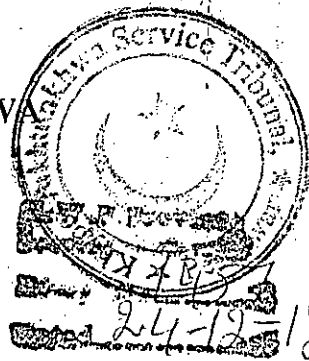
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EXAMINED  
Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar.

Date of Presentation of Application 23-9-2014  
 Number of Petition 800  
 Copying Fee 6  
 Urgent 7  
 Total 9  
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 Date of Completion of Copy 23-9-2014  
 Date of Delivery of Copy 23-9-2014

27  
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**BEFORE THE KHYBER PAKHTUNKHWA  
SERVICE TRIBUNAL PESHAWAR**



Appeal No. 1452/2012

Engr; Kifayat Ullah, Executive Engineer BPS-18 (Acting Charge) PHE Division Karak.

(Appellant)

**VERSUS**

1. Govt of Khyber Pakhtunkhwa through Chief Secretary Khyber Pakhtunkhwa Civil Secretariat Peshawar.
2. Secretary to Govt of Khyber Pakhtunkhwa Public Health Engineering Department Civil Secretariat Peshawar.
3. Secretary to Govt of Khyber Pakhtunkhwa Establishment department Civil Secretariat Peshawar.

(Respondents)

Service Appeal under Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974

Against the notification No. SO (ESTT) PHED/ 1-17/12 dated 17.10.2012 whereby though the appellant has been promoted to the post of Executive Engineer BPS-18 but on acting charge basis, his Departmental representation dated 12.11.2012 for allowing promotion on regular basis was regretted vide letter dated 30.11.2012.

Prayer in appeal:

On acceptance of this appeal the Notification dated 17.10.2012 may please be varied/ modified to the extent of allowing promotion on regular basis w.e.f 17.10.2012 with all arrears and back benefits.

Respectfully submitted:

1. That the appellant was initially appointed as Sub- Engineer BPS-11 Vide Notification dated 16.09.1993, pursuant to the recommendation of the Public Service Commission.

**ATTESTED**  
EX. MEMBER  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar.

21.4.2014

Mr. Iftikhar Ali, Advocate, on behalf of counsel for the appellant and AAG for the respondents present. Rejoinder/ replication received on behalf of the appellant, copy whereof is handed over to the learned AAG for arguments on 22.9.2014.

*Self*  
*Chairman*

22.9.2014

Clerk of counsel for the appellant and Mr. Muhammad Adeel Butt, AAG for the respondents present. Arguments could not be heard due to non-availability of learned counsel for the appellant and incomplete Bench  
To come up for arguments on 25.3.2015.

*Self*  
*Chairman*

*Certified to be true copy*  
EMANUEL  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation of Application 23.9.2014

Number of Words 800

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Total 8

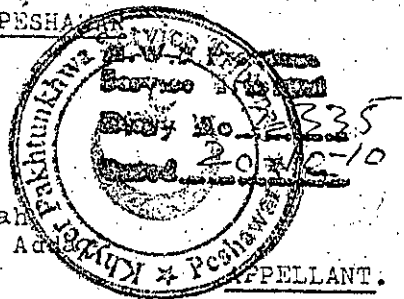
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Date of Completion of Copy 23.9.2014

Date of Delivery of Copy 23.9.2014



Service Appeal No: 2200/2010.



Abdul Waheed Shah son of Siddique Shah  
Resident of Mian Bagh Kot Piran Umar Adda  
Tank, Tehsil & District, Tank.

APPELLANT.

VERSUS.

- 1-Government of K.P.K through Secretary  
Agriculture and Live Stock, Peshawar.
- 2-Director General Live Stock, Govt: of P.K.P,  
Peshawar.
- 3-Executive District Officer Agriculture Live  
Stock, District Tank.
- 4-District Live Stock Officer, Distt: Tank.
- 5-District Coordination Officer, Tank.

RESPONDENTS.

6. - Noor Badshah - s/o Syed Rahmat Shah R/O  
Kot Piran, Tehsil 4 Distt: Tank -

*Filed to the  
Sul  
20/10/10*

SERVICE APPEAL U/S 4 OF SERVICE TRIBUNAL ACT FOR  
SETTING ASIDE OFFICE ORDER NO:368/EDO/Agriculture,  
DATED 28-4-2010, AND RESTORATION OF OFFICE ORDER  
NO:1100-03/EDO(Agr:) 1/7 DATED 31-12-2009.

RESPECTED SIR,

The appellant respectfully submits as under:-

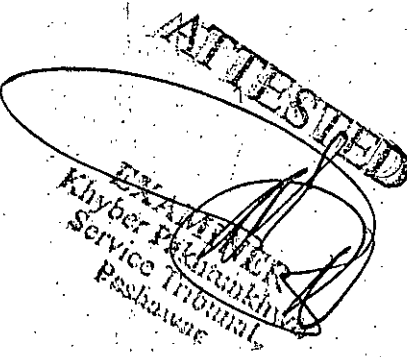
That appellant was appointed as Bahishti-cum-Khakroob  
in BPS-01 on vacant post at C.V.D Mian Bagh Kot Piran  
Umar Adda, Tank by Respondent No-3 vide Office Order  
No:1100-02/EDO(Agr:) 1/7 Dated: 31.12.2009.

Copy of appointment letter is enclosed as ANNEXURE-A.

2-

That appellant resumed his duty on 1.1.2010 and after  
completing all the codal formalities submitted his Arrival  
Report.

Copy of Arrival Report is enclosed as ANNEXURE-B.

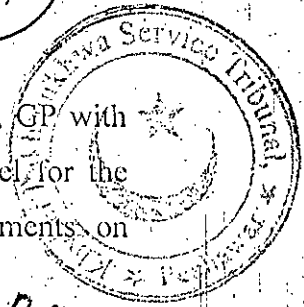


*Syed*

2200/2010

20.6.2014

19



Appellant in person and Mr. Muhammad Jan, GP with Dr. Umar Khan for the respondents present. Counsel for the appellant is not available. To come up for arguments on 19.09.2014.

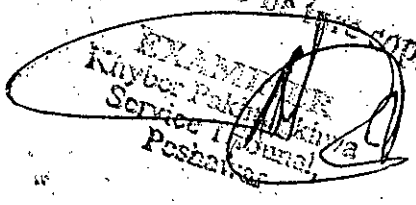
MEMBER

MEMBER

19.09.2014

Father of the appellant and Mr. Muhammad Adeel Butt, AAG for the respondents present. The learned Member (Judicial) is not working due to a recent order of the Hon'ble Peshawar High Court affecting his status as District & Sessions Judge. To come up for arguments on 21.11.2014.

Certified to be true copy

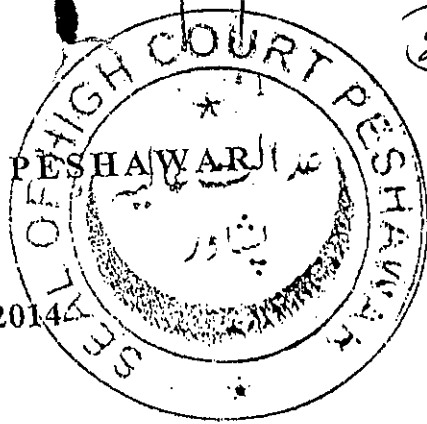


MEMBER

Date of Presentation of Application 23.9.2014  
 Number of Words 800  
 Copying Fee 600  
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 Total 8  
 Name of Copy [Signature]  
 Date of Completion of Copy 23.9.2014  
 Date of Delivery of Copy 23.9.2014

MEMBER

IN THE PESHAWAR HIGH COURT PESHAWAR



WRIT PETITION No. 2397 / 2014

Shams-ur-Rahman,  
Driver, Peshawar Wildlife Division,  
Peshawar.....

Petitioner.

Versus

1. The Secretary,  
Govt. of Khyber Pakhtunkhwa,  
Environment, Forestry and Wildlife Departments,  
Peshawar.
2. The Chief Conservator,  
Wildlife Department,  
Khyber Pakhtunkhwa Peshawar.
3. The Conservator,  
Wildlife Southern Circle,  
Peshawar.
4. The Divisional Forest Officer  
Wildlife Peshawar.
5. Aurang Zaib,  
Dirver,  
D.I.Khan, Wildlife Division..... Respondents

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

Respectfully Sheweth,

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

1. That petitioner is the permanent low paid employee of Respondent No.3 working as Driver. He has been performing his duties to the best of his abilities to the entire satisfaction of his superiors and no complaint whatsoever in nature against him was ever made.

2. That all of sudden, on the direction of Mr. Ishtiaq Urmer, Special Assistant to Chief Minister, Khyber Pakhtunkhwa on Environment, the Respondent No.3 has issued the impugned transfer order on 15.07.2014 whereby petitioner was transferred from Peshawar Wildlife Division to D.I.Khan Wildlife Division. Copy of the impugned transfer order as

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Peshawar High Court  
JUL 2014

## Annex: A.

3. That the petitioner being aggrieved of his illegal, unjustified transfer order and finding no adequate and efficacious remedy is constrained to file this petition on the following amongst other grounds:

Grounds:

- A. That impugned order is against the law, rules and posting/ transfer policy of the provincial government hence not tenable, liable to be set aside.
- B. That impugned order is politically motivated for ulterior motives based on malafides which is not warranted under the law and the Constitution of Pakistan, 1973 having no legal sanctity, of no legal effect and inoperative against the rights of petitioner.
- C. That impugned order has neither passed in the public interest nor based on any complaint or for any other reason rather the same was issued under the political pressure/influence of Mr. Ishtiaq Urmer (MPA) now Special Assistant to Chief Minister of Khyber Pakhtunkhwa on Environment who has no power and authority under the constitution and law to issue such unlawful, frivolous directions to the authorities concerned for the ulterior motives just to accommodate his blue-eyed chap against his post.
- D. That Respondent No.3 has not used his independent mind in the case of petitioner and unlawfully complied with the illegal and incompetent order of the Special Assistant to Chief Minister Khyber Pakhtunkhwa on Environment and passed the impugned order in violation of law, rules and policy on the subject. Hence, the impugned order is illegal, without lawful authority, based on malafides so liable to be set aside.
- E. That petitioner is a low paid employee working as Driver (BPS-05) which is a district cadre post and therefore the Respondent No.3 has no power or authority to transfer him out of district for which his appointment has been made thus the Respondent No.3 acted malafide, in a partial, unjust and oppressive manner. Hence the impugned order is incompetent and not tenable.

- F. That the impugned order is unreasonable and non speaking and violative of Section 24-A of the General Clauses Act, 1897 so not sustainable, liable

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21 JUL 2014

to be set aside.

- G. That it will not be out of context to mention that his three brothers who are also low paid employees working in the Forestry Wing namely Sher Ali, Chowkidar, Sham Sher and Saeed Khan, Forest Guards who are also transferred by a separate order dated 11.07.2014 from Peshawar Forest Division to Bannu Forest Division, D.I.Khan Forest Division and Kohat Division and this order is also passed at the instance of above named Special Assistant to Chief Minister Khyber Pakhtunkhwa. It indicates his personal grudges with petitioner and he is adamant not only to damage the service career of the petitioner and his brothers but also intend to suffer them and their families with mental agony and financial crises by transferring them to far flung areas of southern districts of province. Copy of the order dated 11.07.2014 as **Annex: B**.

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

- (i) Declare the impugned transfer order of petitioner dated 15.07.2014 as illegal, without lawful authority, incompetent, mala fide and against the law, rules and posting/transfer policy.
- (ii) Direct the Respondents No.2 & 3 to act in accordance with law, rules and policy on the subject and not to obey the illegal, incompetent directions/orders of their political boss.
- (iii) Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to petitioner.

**Interim Relief**

That the petitioner has good prima facie case who has not yet been relieved of his job therefore he request the operation of the impugned order may kindly be suspended till the final decision of the main petition.

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Through

Petitioner

Khush Dil Khan  
Advocate,  
Supreme Court of Pakistan

Dated: 18 / 07 / 2014

ATTESTED

EXAMINER  
Peshawar High Court.

11 AUG 2014

CERTIFICATE

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

Khush Dil Khan  
Advocate, Peshawar.

List of Books

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

NOTE

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

Khush Dil Khan  
Advocate, Peshawar

ATTESTED

EXAMINER  
Peshawar High Court

11 AUG 2014

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Deputy Registrar

21 JUL 2014

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IN THE PESHAWAR HIGH COURT PESHAWAR.

W.P. No. 222 of 2014

Petitioner: Sheer-ul-Rahman .....  
Versus  
Respondents: Secretary, Govt of KP, Foresty and Wildlife Department and others.....

Addresses of Parties.

Petitioner: Sheer-ul-Rahman, Director, Peshawar Wildlife Division, Peshawar.....  
Versus

1. The Secretary, Govt of Khyber Pakhtunkhwa, Environment, Foresty and Wildlife Departments, Peshawar.
  2. The Chief Conservator, Wildlife Department, Khyber Pakhtunkhwa Peshawar.
  3. The Conservator, Wildlife Southern Circle, Peshawar.
  4. The Divisional Forest Officer, Wildlife Peshawar.
  5. Aurang Zaid, Director, D.I. Khan, Wildlife Division.....
- Respondents

Through  
Khusb Dikhan  
Advocate  
Supreme Court of Pakistan

Dated: 21/07/2014

FILED TODAY  
21 JUL 2014  
ATTENTION  
EXAMINE  
11/07/2014

CERTIFICATE

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

Khush Dil Khan  
Advocate, Peshawar.

List of Books

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

NOTE:

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

Khush Dil Khan  
Advocate, Peshawar

ATTESTED  
EXAMINER  
Peshawar High Court  
11 AUG 2014

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Deputy Registrar  
21 JUL 2014



IN THE PESHAWAR HIGH COURT PESHAWAR.

W.P. No. 2292/2014

Shams-ur-Rahman ..... Petitioner

Versus

Secretary, Govt of KP  
Forestry and Wildlife Department and others ..... Respondents

Addresses of Parties.

Shams-ur-Rahman,  
District, Peshawar Wildlife Division,  
Peshawar ..... Petitioner

Versus

1. The Secretary,  
Govt. of Khyber Pakhtunkhwa,  
Environment, Forestry and Wildlife Departments,  
Peshawar.

2. The Chief Conservator,  
Wildlife Department,  
Khyber Pakhtunkhwa Peshawar.

3. The Conservator,  
Wildlife Southern Circle,  
Peshawar.

4. The Divisional Forest Officer,  
Wildlife Peshawar.

5. Aung Saib,  
District,  
D.I. Khan, Wildlife Division ..... Respondents

Through

Khush Dil Khan  
Advocate,  
Supreme Court of Pakistan

Dated: 12/07/2014

FILED TODAY  
21 JUL 2014  
EXAMINED  
11 JUL 2014  
ATTENTION

IN THE PESHAWAR HIGH COURT PESHAWAR

W.P. No. 2397/2014

Shams-ur-Rahman .....Petitioner

Versus

Secretary, Govt. of KP  
Forestry and Wildlife  
Department and others.....Respondents

Affidavit

I, Shams-ur-Rahman, Driver, Peshawar Wildlife Division, Peshawar, do hereby solemnly affirm and declare on oath that the contents of this petition are true and correct to the best of my knowledge, and nothing has been concealed from this Hon'ble Court.

*Shams-ur-Rahman*  
Deponent

Identified by.

*Khush Dil Khan*  
Advocate, Peshawar

706  
I, *Shams-ur-Rahman*, do hereby solemnly affirm and declare on oath that the contents of this petition are true and correct to the best of my knowledge, and nothing has been concealed from this Hon'ble Court.  
day of *July* 15 *2014*  
at *Peshawar*  
who was identified by *Khush Dil Khan*  
who is personally known to me.  
*Khush Dil Khan*  
Oath Commissioner  
Peshawar

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21 JUL 2014

ATTESTED  
EXAMINER  
Peshawar High Court.  
21 JUL 2014

## IN THE PESHAWAR HIGH COURT PESHAWAR.

W.P. No. 23978 / 2014

Shams-ur-Rahman ..... Petitioner

Versus

Secretary, Govt. of KP  
Forestry and Wildlife Department and others..... RespondentsAddresses of Parties.Shams-ur-Rahman,  
Driver, Peshawar Wildlife Division,  
Peshawar..... Petitioner.

Versus

1. The Secretary,  
Govt. of Khyber Pakhtunkhwa,  
Environment, Forestry and Wildlife Departments,  
Peshawar.
2. The Chief Conservator,  
Wildlife Department,  
Khyber Pakhtunkhwa Peshawar.
3. The Conservator,  
Wildlife Southern Circle,  
Peshawar.
4. The Divisional Forest Officer  
Wildlife Peshawar.
5. Aurang Zaib,  
Dirver,  
D.I.Khan, Wildlife Division..... Respondents

Through

  
 Petitioner

 Khush Dil Khan  
 Advocate,  
 Supreme Court of Pakistan
Dated: 18 / 07 / 2014

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21 JUL 2014

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EXAMINED  
Peshawar High Court.

11 AUG 2014

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PESHAWAR HIGH COURT PESHAWAR

ORDER SHEET

Serial No. of Order or Proceedings	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary
1	2	3
	5.8.2014	<p><u>W.P.No. 2397-P/2014.</u></p> <p>Present:</p> <p>Mr. Khushdil Khan, Advocate for petitioners.</p> <p>*****</p> <p>As the Service Tribunal is not functioning, so this Court is left with no option but to resume the jurisdiction, in the interest of justice. Hence, the respondents are directed to file their comments, so as to reach this Court within a fortnight.</p> <p><u>Interim Relief:-</u></p> <p>Notice for a short date. In the meanwhile the operation of the impugned Transfer order dated 11.7.2014, stands suspended, till the next date of hearing.</p> <p><i>sd/ Ghulamullah Khan</i> <i>sd/ Musabbat Hidayatullah</i></p> <p>JUDGE</p> <p>JUDGE</p> <p>CERTIFIED TO BE TRUE COPY</p> <p>Examiner Peshawar High Court, Peshawar Authorized Under Article 17 of the Constitution of Pakistan Order 1984</p>

\*Zarshad\*

11 AUG 2014

① "E" 27  
IN THE PESHAWAR HIGH COURT PESHAWAR



W.P No. 522-P of 2014

Muhammad Islam Bangash S/O Gul Rehman  
Director Education FATA, FATA Secretariat, Warsak Road,  
Peshawar.....Petitioner

VERSUS

1. Govt. of Khyber Pakhtunkhwa through Chief Secretary, Civil Secretariat, Peshawar.
2. Additional chief Secretary, FATA Secretariat, Warsak Road, Peshawar.
3. Secretary Social Sector FATA Secretariat, Warsak Road, Peshawar.
4. Noor Ullah Khan Wazir, Director Higher Education, Khyber Pakhtunkhwa, District Courts, Peshawar.....Respondents

PETITION UNDER ARTICLE 199 OF THE  
CONSTITUTION OF PAKISTAN FOR DECLARATION  
TO THE EFFECT THAT THE TRANSFER OF  
PETITIONER FROM THE OFFICE OF DIRECTOR  
EDUCATION FATA TO HIGHER EDUCATION  
DEPARTMENT BY ORDER DATED 13.02.2014  
AFTER HIS POSTING AS DIRECTOR EDUCATION ON  
03.10.2013 AND WHILE THE PETITIONER IS  
RETIRING ON 30.04.2014 AS HE WILL REACH THE  
THE AGE OF SUPERANNUATION ON 30.04.2014 AS  
ILLEGAL, WITHOUT LAWFUL AUTHORITY AND  
WITHOUT JURISDICTION.

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Deputy Registrar  
17 FEB 2014

ATTESTED

EXAMINER  
Peshawar High Court,  
24 FEB 2014

Respectfully Sheweth:

1. That petitioner is serving Education Department and was presently posted as Director Education FATA in BPS-20. He was posted as Director Education FATA vide order dated 03.10.2013. Copy of posting order is annexure "A".
2. That petitioner is on the last leg of his service as his date of birth according to Secondary School Certificate is 01.05.1954. Copy of the SSC is annexure "B" and that of CNIC is annexure "B/1". Accordingly he will retire on 30.04.2014.
3. That petitioner was surprised when on 13.02.2014 just after 4-½ months he was transferred and ordered to report to Higher Education Department. Copy of the impugned transfer order is annexure "C".
4. That the petitioner will reach the age of superannuation on 30.04.2014 and will retire from service the same day.
5. That according to the posting / transfer policy of the Khyber Pakhtunkhwa the normal tenure of posting shall be 3 years and when the officer/ official is retiring he may be posted on his option in the District of domicile and be allowed to retire from there. Copy of the transfer posting policy is annexure "D".
6. That the impugned actions of respondents are against their posting and transfer policy and has also maligned the petitioner as he is going to retire on 30.04.2014 and is therefore mortally aggrieved of the impugned order for the following amongst other grounds:-

GROUND:

A: That the petitioner had hardly stayed for 4 ½ months on the post from where he was transferred in order to show favour to respondent no.4 who is a favourite of some high-ups dealing with FATA. It is more-so as petitioner is retiring on 30.04.2014 and he was to be given the option and allowed to stay till retirement on the post.

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17 FEB 2014

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EXAMINED  
Peshawar High Court  
24 FEB 2014

- B. That the impugned order is contrary to the judgment of Supreme Court of Pakistan reported as 'PLD 2013 S.C Page-195" where the law has been very clearly laid down on the subject.
- C. That the impugned order glaringly violates the rule of law and public policy and therefore needs to be struck down.
- D. That the impugned order is arbitrary, not based on any reason or justification, rather it advances favoritism and violates the proclaimed policies.
- E. That the petitioner has been treated unequally, against the law and thus deprived of equal protection of law.
- F. That the impugned order is discriminatory as no genuine cause, reason or ground exists in support of the impugned actions.
- G. That the impugned order is in violation of the fundamental rights of petitioner.

*It is therefore prayed that the impugned order of respondent dated 13.02.2014 transferring the petitioner from the office of Director Education FATA to Higher Education Department after 4 ½ months despite the fact that the petitioner is going to retire on 30.04.2014 as he will reach the age of 60 years i.e. the age of superannuation, may please be declared as illegal, unlawful against the law and without lawful authority, and consequently the petitioner be allowed to perform his duty on the post of Director Education FATA till his retirement on 30.04.2014.*

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Deputy Registrar  
17 FEB 2014

ATTESTED  
EXAMINER  
Peshawar High Court  
24 FEB 2014

Any other relief deemed appropriate in the given facts and circumstances of the case though not specifically prayed for may also be allowed/ granted.

INTERIM RELIEF:

By way of interim relief the operation of the impugned transfer order dated 13.02.2014 may please be suspended till the decision of writ petition.

Petitioner

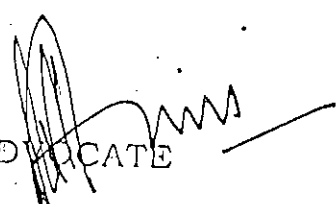
Through



A. Latif Afridi  
Advocate, Peshawar

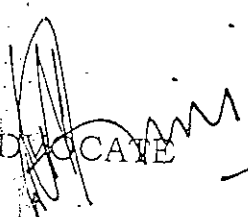
CERTIFICATE:

Certified that no such like writ petition has earlier been filed on the subject matter before this Hon'ble Court.

  
ADVOCATE

LAW BOOKS:

1. Constitution of Pakistan
2. PLD 2013 SC 195
3. any Law Book as per need

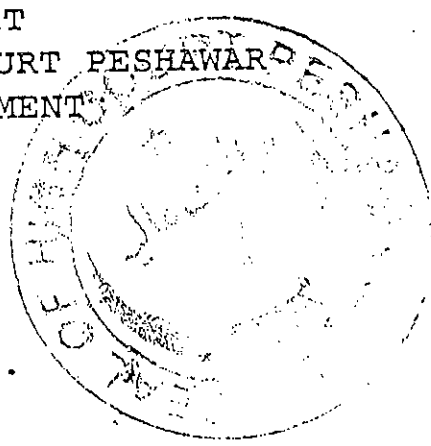
  
ADVOCATE

ATTESTED  
EXAMINER  
Peshawar High Court  
20 FEB 2014

FILED TODAY  
Deputy Registrar  
17 FEB 2014



JUDGMENT SHEET  
IN THE PESHAWAR HIGH COURT PESHAWAR  
JUDICIAL DEPARTMENT  
JUDGMENT



WP NO.522-P of 2014.

Date of hearing 21.2.2014.

Petitioner (Muhammad Islam Bangash) By  
Mr.Khalid Anwar Afridi, Advocate.

Respondents (Govt of KPK through Chief  
Secy etc.) By Mr.Waqar Ahmad AAG.

\*\*\*\*\*

QAISER RASHID KHAN, J.- Through the  
petition in hand, the petitioner has  
impugned the order dated 13.2.2014 whereby  
he has been transferred from the office of  
Director Education (FATA) to Higher  
Education Department, despite the fact  
that he would retire on 30.4.2014 on  
attaining the age of superannuation.

2. Precise facts leading to the  
instant petition are that the petitioner  
while serving in the Education Department  
was posted as Director Education FATA vide  
order dated 3.10.2013 and is due for  
retirement on 30.4.2014 on attaining the

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PESHAWAR HIGH COURT  
24 FEB 2014

He  
a

age of superannuation. However on 13.2.2014, he was ordered to report to Higher Education Department Peshawar vide the impugned transfer order in disregard to the policy of the Government of KPK, hence the instant petition.

3. The learned counsel for the petitioner argued that the petitioner has unnecessarily been singled out and harassed by the respondent/department as on the one hand he was posted as Director Education FATA on 3.10.2013, but barely after four months he was again transferred through the impugned order and secondly the petitioner would stand retired from Government service on 30.4.2014 and the impugned order is thus violative of the Government policy, which provides for seeking the option of such retiring Government servant.

4. The learned AAG present in the court in another case was put on notice and directed to assist this court in view of the transfer policy of the Government. He in turn contended that the transfer of a civil servant squarely falls within the

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 PETITIONER  
 14 FEB 2014

domain of the KPK Service Tribunal and thus the present petition is not maintainable in view of the bar contained in Article 212 of the Constitution of the Islamic Republic of Pakistan.

5. Arguments heard and record perused.

6. We are fully conscious of the constitutional bar referred to above, but the learned AAG could not controvert clause (xi) of the prevalent posting/transfer policy of the Provincial Government dated 15.2.2003, which states in unequivocal terms that:-

"Officer/Official except DCOs and SPs who are due to retire within one year may be posted on their option on posts in District of their domicile and be allowed to serve there till retirement".

7. In view of the above stated policy when the petitioner is in the twilight of his service career being due for retirement on 30.4.2014 on attaining the age of superannuation, his transfer order is not within the fitness of circumstances.

RECORDED  
EXAMINER  
High Court,  
FEB 2014

8. Being so, this petition is admitted and allowed, the impugned transfer order being violative of the standing Government policy is set aside and accordingly the respondents are directed for strict compliance of the same leaving the petitioner to complete his remaining service on his post as Director Education (FATA).

*Sd/- Justice Rashid Khan*  
*Sd/- Justice Muhammad Khan*

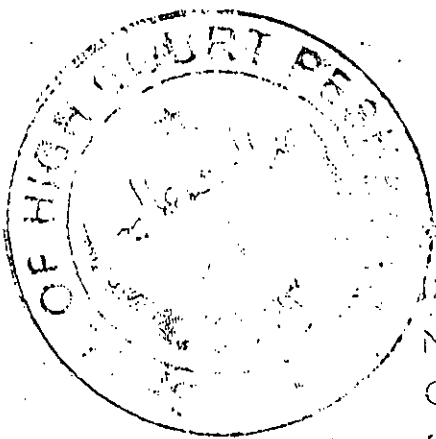
*[Signature]*  
 JUDGE

Announced:  
Dated 21.2.2014

JUDGE

CERTIFIED TO BE TRUE COPY  
 Examiner  
 Peshawar High Court, Peshawar  
 Authorised Under Article 177 of  
 The Qanun-e-Shahadat Order 1988  
 24 FEB 2014

*24-02-14*



*13/p8*

Date of Presentation of Application *24-02-14*  
 No of Pages *8P*  
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 Total *16.00*  
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 Date Given For Delivery *24-02-14*  
*24-02-14*  
*M. Asch*

*114*

BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.

21  
18-1-15

Ghulam Dastageer .....Appellant/ Applicant

Versus

Govt. of KPK through Chief Secretary and others..... Respondents

APPLICATION FOR PERMISSION TO  
AMEND THE APPEAL.

*Respectfully Sheweth;*

- 1) That the above mentioned appeal is pending adjudication before this Hon'ble Tribunal which is fixed for 30.01.2015.
- 2) That the above mentioned case is pertaining to premature and illegal transfer order of the applicant which was remanded by the Hon'ble High Court, Peshawar and is now subjudice before this Hon'ble Tribunal which needs amendment according to circumstances.
- 3) That it shall be in the interest of justice to allow the applicant for filing amended appeal in the best interest of justice.

It is, therefore, respectfully prayed that on acceptance of this application, the applicant may kindly be allowed to amend the titled appeal in the above mentioned case in the interest of justice.

Appellant/ Applicant

Through

  
Muhammad Farooq Afridi  
Advocate, Peshawar.

BEFORE K.P.K. SERVICE TRIBUNAL, PESHAWAR

Ghulam Dastageer..... Appellant/ Applicant

Versus

Govt. of KPK through Chief Secretary and others..... Respondents

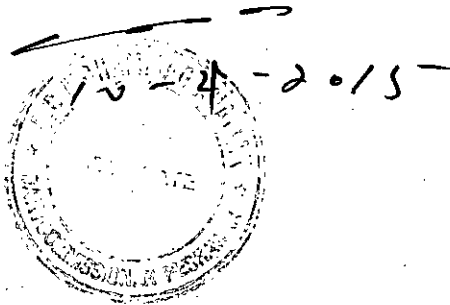
AFFIDAVIT

I, Ghulam Dastageer S/o Badshah Khan Head Clerk C&W FATA Division Orakzai at Hangu, do hereby affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.



Deponent

ATTESTED



BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.

Syed Ghaus Ali Shah..... Appellant/ Applicant

Versus

Govt. of KPK through Chief Secretary and others..... Respondents

---

APPLICATION FOR PERMISSION TO  
AMEND THE APPEAL.

---

*Respectfully Sheweth;*

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It is, therefore, respectfully prayed that on acceptance of this application, the applicant may kindly be allowed to amend the titled appeal in the above mentioned case in the interest of justice.

Appellant/ Applicant

Through

Muhammad Farooq Afridi  
Advocate, Peshawar.

BEFORE K.P.K. SERVICE TRIBUNAL, PESHAWAR

Syed Ghaus Ali Shah ..... Appellant/ Applicant

Versus

Govt. of KPK through Chief Secretary and others..... Respondents

**AFFIDAVIT**

I, Ghaus Ali Shah son of Syed Sher Badshah, Office Assistant Molvi Ameer Shah Memorial Hospital, Peshawar, do hereby affirm and declare on oath that the contents of the accompanying **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

10-1-2015

Deponent



BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR.

Syed Ghaus Ali Shah..... Appellant/ Applicant

Versus

Govt. of KPK through Chief Secretary and others..... Respondents

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APPLICATION FOR PERMISSION TO  
AMEND THE APPEAL.

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Appellant/ Applicant

Through

Muhammad Farooq Afridi  
Advocate, Peshawar.

Syed Ghaus Ali Shah ..... Appellant/ Applicant

Versus

Govt. of KPK through Chief Secretary and others..... Respondents

**AFFIDAVIT**

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10-1-2015

Deponent