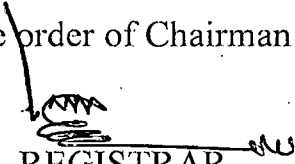


Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1523/2022

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	24/10/2022	<p>The appeal of Mr. Amir Zada presented today by Mr. Yaqub Khan Advocate. It is fixed for preliminary hearing before Single Bench at Peshawar on _____.</p> <p>Notices be issued to appellant and his counsel for the date fixed.</p> <p>By the order of Chairman</p> <p> REGISTRAR</p>

BEFORE SERVICE TRIBUNAL PESHAWAR

CHECK LIST

Case Title: Amir Zada vs C.S. KPk & others

S.#	Contents	Yes	No
01	This petition has been presented by: <u>Amir Zada Appellant</u>	<input checked="" type="checkbox"/>	
02	Whether Counsel / Petitioner / Respondent / Deponent have signed the requisite documents?	<input checked="" type="checkbox"/>	
03	Whether the enactment under which the case/petition is filed mentioned?	<input checked="" type="checkbox"/>	
04	Whether the enactment under which the case/petition is filed is correct?	<input checked="" type="checkbox"/>	
05	Whether affidavit is appended?	<input checked="" type="checkbox"/>	
06	Whether affidavit is duly attested by competent oath commissioner?	<input checked="" type="checkbox"/>	
07	Whether petition/annexure are properly paged?	<input checked="" type="checkbox"/>	
08	Whether annexures are certified?	<input checked="" type="checkbox"/>	
09	Whether certificate regarding filing any earlier appeal/petition on the subject, furnished?	<input checked="" type="checkbox"/>	
10	Whether annexures are legible?	<input checked="" type="checkbox"/>	
11	Whether annexures are attested?	<input checked="" type="checkbox"/>	
12	Whether Special Power of Attorney filed?	<input checked="" type="checkbox"/>	
13	Whether Special Power of Attorney attested?	<input checked="" type="checkbox"/>	
14	Whether copy of application is delivered to A.G/D.A.G?	<input checked="" type="checkbox"/>	
15	Whether Appeal, Revision application is within time?	<input checked="" type="checkbox"/>	
16	Whether value for the purpose of Court fee and jurisdiction given in the relevant column of the opening sheet is correct?	<input checked="" type="checkbox"/>	
17	Whether Power of Attorney of the Counsel engaged is attested and signed by all petitioners/appellants/respondents?	<input checked="" type="checkbox"/>	
18	Whether complete spare copy is filed in separate file cover?	<input checked="" type="checkbox"/>	
19	Whether numbers of referred cases given/ are correct?	<input checked="" type="checkbox"/>	
20	Whether petition being sent by post?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
21	Whether appeal/petition contains cuttings/overwriting?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
22	Whether appeal/revision/ writ petition is competent?	<input checked="" type="checkbox"/>	
23	Whether list of books has been provided at the end of the petition?	<input checked="" type="checkbox"/>	
24	Whether case relate to this Court?	<input checked="" type="checkbox"/>	
25	Whether case relate to this Bench?	<input checked="" type="checkbox"/>	

26	Whether petition drafted by a competent person?	✓	
27	Whether name of Jail in which appellant/petitioner/respondent is confined given?	✓	
28	Whether copies of annexures are readable/clear?	✓	
29	Whether Court Fee stamps affixed?	✓	
30	Whether Court Fee stamps annexed are sufficient?	✓	
31	Whether certified copies of impugned order/decrees sheets before District Judge have been filed?	✓	
32	Whether in view of Order 43 Rule 3 CPC/Rule 2(3) Chapter 4-J, Vol: V of High Court Rules & Orders, notice along with copy of appeal/petition and annexures has been sent to respondents?	✓	
33	Whether Judicial Officer whose orders are challenged mentioned at the bottom of the panel of respondents?	✓	
34	Whether index filed?	✓	
35	Whether index is correct?	✓	
36	Whether copies of comments/reply/rejoinder provided to opposite party?	✓	
37	Whether addresses of parties given are complete?	✓	
38	Whether addresses of parties are complete?	✓	
39	Whether list of L.Rs of petitioner filed?	-	✓
40	Whether copy of list of L.Rs of respondents as filed before Courts below or, if not, a certificate to this effect attached?	-	✓
41	Whether opening sheet filed?	-	✓
42	Whether opening sheet is correct / complete?	-	-
43	Whether approved file cover used?	✓	
44	Whether separate application filed for each prayer?	✓	
45	Whether separate request has been made for interim relief in writ petition?	✓	
46	Whether security of Rs. 10,000/- deposited with review petition?	-	✓
47	Whether review petition filed and certified by the Advocate who had argued the case resulting into order review of which is sought?	✓	
48	Whether purpose of the document filed explained?	✓	
49	Whether respondents sued by name in the CoC?	-	✓

It is certified that formalities/documentation as required in the above table have been fulfilled.

Name:

Yagub Khan Advocate

Signature:

[Signature]

Dated:

22/10/22

**BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUN,
KHYBER PAKHTUN, PESHAWAR.**

Service Appeal No. 1523/2022

Amir Zada

.....Appellant

VERSUS

Chief Secretary & others

..... Respondents

I N D E X

S.No	Description of documents	Annex;	Pages	
			From	To
1	Service Appeal		1	7
2	Affidavit		8	
3	Application for suspension and Affidavit		9	10
4	Copy of the notification dated 05-04-2022	A	11	11
5	Copy of the notification 01-06-2022	B	12	
6	Copy of the notification 20-06-2022	C	13	
7	Copy of the notification 29-08-2022	D	14	
8	Copy of the departmental appeal	E	15	16
9	Copy of the notification 31-08-2022	F	17	
10	Copy of the notification 1309-2022	G	18	
11	Copy of the notification 27/09/2022	H	19	
12	Copy of the departmental appeal along with order	I	20	22
13	Copy of order on departmental appeal dated 19/10/2022	J	23	
14	Copy of decision of Peshawar High Court	K	24	32
15	Application to provision election commissioner	L	33	34
16	Copy of notification of Election Commission	M	35	36
17	Wakalat Nama		37	

Appellant


Amir Zada

Dated: 21-10-2022

Through;

BEFORE THE SERVICE TRIBUNAL, KHYBER
PAKHTUN **KHWA, PESHAWAR.**

Service Appeal No 1523/2022

1. AMIR ZADA S/O BAHADAR KHAN SUB
DIVISIONAL OFFICER (OPS) PHE CHARSADE
RESIDENT OF QASIM (TORU) TEHSIL GHARI
KAPURA DISTRICT MARDAN

.....APPELLANT

V E R S U S

1. The Government of Khyber Pakhtunkhwa through
Chief Secretary Peshawar.
2. The Secretary Public Health Engineering
Department, Khyber Pukhtunkhwa, Peshawar.
3. The Chief Engineer PHE (Centre) Public Health
Department Peshawar
4. The Superintendent Engineer PHE Circle Peshawar
5. The Executive Engineer PHE Division Charsada
6. The Accountant General, Khyber Pakhtunkhwa
Peshawar
7. The District Accounts Officer Charsada
8. Mr. Tariq Mehmood Sub Divisional Officer, Takht
Nasrati-I Karak.
9. Mr. Aurangzeb Sub Divisional Officer Nawagai, Bajaur

.....RESPONDE

NTS

Service appeal under section-4 of the khyber
pakhton khwa, service tribunal act, 1974 against the
impugned office order/notification vide
no.so(estt)/phed/1-44-2022 dated 13-09-2022
whereby the appellant has prematurely been
transferred from the office of the SDO (OPSs) PHE
sub Division Charsada to SDO ADE O/O Chief
Engineer (south) Peshawar against which,
departmental appeal No. SECY diary No. 695

dated 20/09/2022 of the appellant is rejected vide No. SO(E) /PHED/1-44-21 dated 19/10/2022 is rejected.

prayer:

on acceptance of the instant appeal the impugned office order no so (estt)/phed/1-44-2022 dated 13-09-2022 and vide No. SDE/ PHED/1-44-21 dated 19/10/22 may please be set-aside and the same may be declared as illegal, unlawful, without of lawful authority, void-ab-initio and in sheer violation ban imposed by election commission of Pakistan via notification nof.8(7)/2022-cord (4) dated 05-08-2022, and evidently an outcome of political motivation, therefore respondents may be directed to withdraw the above stated order and appellant may not be transfer from his present post SDO (OPS) PHE sub division charsadda till the completion of the statutory tenure and order of respondent dated 27/09/2022 "held in abeyance" may be modified to the extent of withdraw. . any other remedy with this august tribunal deems fit that may also be awarded in favour of the appellant.

Respectfully Sheweth:

Brief Facts giving rise to this Service appeal are submitted as under:

1. That the appellant is working in the Public Health Department as an SDO and presently performing duties in PHE Sub Division Charsadda.(Copy of the notification is annexed here with)
2. That the appellant has performed unblemished and satisfactory performance in the department and having no

17 That the transfer is based on extraneous political pressure, on serious grave personal (humiliation) ground, and had not been passed in exigency of service.

18 That the impugned notification is without any legal justification.

19 That the subjected notification is completely against the transfer/posting policy and judgment of Honourable Supreme Court of Pakistan. The same need as positive review in the interest of justice.

20 That keeping in view the facts mentioned above the department was supposed to allow the appellant to complete at least normal tenure of two years at a station but he hardly served any station for one and a half month.

21 That feeling aggrieved from the order dated 29-08-2022, the appellant filed a departmental appeal before the competent authority Secretary Public Health Department Khyber Pakhtunkhwa on 30-08-2022.

(Copy of the departmental appeal is attached)

22 That both the impugned notification of dated 29-08-2022 and 13-09-2022 are issued on such occasion that ban is imposed on posting/transfer by the Election commission of Pakistan/Khyber Pakhtunkhwa due to election NA-24 District Charsadda.

23 That with the influence of provincial election commission the impugned notification NO S.O(Estt) PHED/1-44/22 dated 13/09/2022 was held abeyance till culmination of by-election NA-24 Charsadda.

24 That meanwhile the petitioner approached to the honourable High Court Peshawar through Writ Petition before PHC which was decided on 05/09/2022 with the direction to the respondent No.2 to decide the departmental appeal within seven days from the date of decision. That the departmental appeal is considered & rejected on dated 19-10-2022. **(copy of High Court decision attached)**

GROUN

- A. That the appellant has served the department for sufficient time with zeal and devotion and no adverse remarks are available in his service record.

- H. That act of the respondents department is based on of political influence and without tenure policy transfers against the law and judgments of superior courts relied upon the relevant para of judgements of Supreme Court of Pakistan 1996 SCMR 1185 titled hammed Akhtar Naizi Vs The Secretary Establishment Division, Government of Pakistan relevant part is reproduced here for ease of reference,
- I. That the appellant craves permission of this Honourable Tribunal to advance any other ground at the time of hearing and to submit any other arguments/documents if necessary, in support of this service appeal.

Prayer;

It is, therefore, most humbly prayed that, on acceptance of this Service Appeal, the impugned office order No so (est.)/phed/1-44-2022 dated 13-09-2022 and SO (E)/PHED/1-44-21 dated 19/10/2022 may please be set-aside and the same may be declared as illegal, unlawful, without lawful authority, respondents may be directed to with draw the above stated order and appellant may not be transfer from his present post SDO (OPS) PHE Sub division Charsadda till the completion of the statutory tenure. Any other remedy with this august tribunal deems fit that may also be awarded in favour of the appellant.

Appellant _____

Amir Zada

Dated: 21-10-2022

Through;

- B. That the appellant has not been treated by the respondent department in accordance with and rules on the subject above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic republic of Pakistan.
- C. That the appellant was transferred so many times just in the same year 2022 from the month of April to August, without any reasons in violation of transfer and tenure policy which is also against the law, rules, and judgment of august Supreme court of Pakistan enshrine in "Anita Turab VS Federation of Pakistan" reported on 2013 PLD SC P 195.
- D. That likewise, the impugned order dated 13-09-2022 of the Department/Secretary PHE qua transfer of the appellant not being permissible and the same being whimsical, arbitrary and punitive in nature and therefore, in violation of fundamental rights of the Constitution of Islamic Republic of Pakistan of 1973 and in contravention of rules and policy, therefore not tenable in the eyes of law.
- E. That the impugned order dated 13/09/2022 is frequent transfer which practice is bar vide reported judgment PLJ-1995 SC P-629.
- F. That the appellant has not been completed his tenure in Charsadda Sub Division and the normal period of posting of a Government Servant at a station, according to the 21 of the rules of business is three years, which has to be followed in the ordinary circumstance, unless for reasons or exigencies of service a transfer before expiry of the said period becomes necessary thus the said transfer without completion of tenure is against the law and rules, constitution and fundamental rights.
- G. That the transfer of the appellant is against the tenure, appointment, promotion and posting/transfer are of utmost importance in the civil service, and the same will rightly be considered and treated as part of the terms and conditions of service of a civil servant. If, however, rules and instructions are deviated from and as a result merit is discouraged on account of favouritism, Sifarish or considerations other than merit, it should be evident that civil service will not remain independent or efficient in this regard reliance upon Constitution petition no 23/2012 petition by Ms. Anita Turab Vs Government of Pakistan etc.

9

**BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUN,
KHWA, PESHAWAR.**

Service Appeal No _____/2022

Amir Zada

.....Appellant

V E R S U S

Chief Secretary & others

.....Respondents

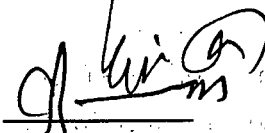
**Application for suspension of the impugned office
notification No. SO (Eestt;)/PHED/1-44-2022 dated 13-
09-2022 till the final disposal of the instant case.**

Respectfully shweth

1. That the above titled petition is to filled before this honourable court, in which no date is fixed for hearing.
2. That appellat filed the above mentioned application against the impugned office order no: NO.SO (ESTT)/PHED/1-44-2022 DATED 13-09-2022 by the respondent.
3. That if the impugned order dated 13-09-2022 has not been suspended the appellat will face irreparable loss and will declare the above mentioned appeal in fructuous.
4. That all the three ingredients necessary for the stay is in favour of the appellat.
5. That impugned order dated 13-09-2022 & 19/10/2022 has been issued by the respondent in utter disregard of law and prevailing rules with mollified intention.

It is therefore, most humbly prayed that on acceptance of this application the operation of the impugned office order NO.SO (ESTT)/PHED/1-44-2022 DATED 13-09-2022 & 19/10/2022 may kindly be suspended till the disposal of the case. Also direct to the respondents to release the salary for the month of June, July and October 2022.

Appellant



Amir Zada

Dated: 21-10-2022

Through

10

BEFORE THE SERVICE TRIBUNAL, KHYBER PAKHTUN,
KHWA, PESHAWAR.

Service Appeal No _____/2022

Amir Zada

.....Appellant

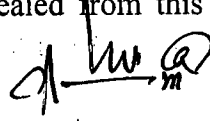
VERSUS

Chief Secretary & others

.....Respondents

AFFIDAVIT

I, do hereby solemnly affirm and declare on Oath that the contents of the accompanying **Service Appeal** are true and correct to the best of my knowledge and belief and nothing has been concealed from this hon'ble Tribunal.

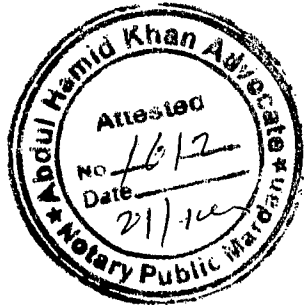


Deponent

CNIC No: 16101-7667994-3

Cell: 03339864637







GOVERNMENT OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT

Dated Peshawar, the April 05, 2022

NOTIFICATION

No.SO(Estt)/PHED/1-45/2022: The competent authority is pleased to order the postings/transfers of the following officers of Public Health Enng: Department, on administrative grounds and in the interest of public service, with immediate effect:-

S.#	Name	From	To
1.	Engr. Abid Ali Shah, BPS-18	Executive Engineer PHE Division Shangla	Design Engineer (South) PHED Peshawar
2.	Engr. Fawad Ahmad, BPS-18	Executive Engineer PHE Division Dir Lower	Executive Engineer PHE Division Peshawar-II
3.	Engr. Junaid Hafeez, BPS-18	Executive Engineer PHE Division Peshawar-II	Executive Engineer PHE Division Mardan
4.	Engr. Yasir Rehman, BPS-18	Executive Engineer PHE Division Mardan	Executive Engineer PHE Division Battagram
5.	Engr. Salim Javid, BPS-18	Design Engineer (Center) PHED Peshawar	Executive Engineer PHE Division Hangu
6.	Engr. Khalid Asmat Gandapur, BPS-17	Executive Engineer (OPS) PHE Division Battagram	Executive Engineer (OPS) PHE Division Dir Lower
7.	Engr. Mian Gul, BPS-17	SDO PHE Sub Division Wana South Waziristan	Executive Engineer (OPS) PHE Division Shangla
8.	Engr. Jamshad Hussain Bangash, BPS-17	SDO PHE Sub Division Bulk WS Shakardara Kohat	Assistant Design Engineer (North) PHED Peshawar
9.	Mr. Muhammad Yousaf Alizai, BPS-17	SDO PHE Sub Division Paharpur D.I. Khan	SDO PHE Sub Division Alpuri Shangla
10.	Mr. Hamid Ali, BPS-12	SDO (OPS) PHE Sub Division Alpuri Shangla	SDO (OPS) PHE Sub Division Bulk WS Shakardara Kohat
11.	Engr. Muhammad Duraiz Khan, BPS-17	SDO PHE Sub Division Hassan Khel Peshawar-II	SDO PHE Sub Division No.2 Peshawar-I
12.	Engr. Fahad Noor, BPS-17	SDO PHE Sub Division No.2 Peshawar-I	SDO PHE Sub Division Hassan Khel Peshawar-II
13.	Mr. Halim Shah, BPS-16	Sub Engineer PHE Division Dir Bulk WS Abbottabad	SDO (OPS) PHE Sub Division Puran Shangla
14.	Mr. Lajbar Khan, BPS-17	Under transfer as SDO PHE Sub Division Totalai Buner	Assistant Design Engineer (South) PHED Peshawar
15.	Mr. Amir Zada, BPS-16	Sub Engineer PHE Division Mardan	SDO (OPS) PHE Sub Division Totalai Buner

**SECRETARY
PHE DEPARTMENT**

No.SO(ESTT)/PHED/1-45/2021:

Dated Peshawar, the April 05, 2022

Copy forwarded for information & necessary action to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar
2. Chief Engineer (Center/South/North/East) PHE Department Khyber Pakhtunkhwa.
3. Superintending Engineer PHE Circle concerned.
4. Director Technical PHE Department Peshawar
5. Executive Engineer PHE Division concerned.
6. District Accounts Officer concerned.
7. All Section Officers PHE Department Peshawar
8. PS to Minister for PHE Khyber Pakhtunkhwa Peshawar.
9. PS to Secretary PHE Department Khyber Pakhtunkhwa Peshawar
10. Officers concerned.
11. Office Order / Personal Files.

SECTION OFFICER (ESTT)

Attested

Jawid
Jawid Khan
Section Officer (ESTT)



GOVERNMENT OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT

Dated Peshawar, the June 01, 2022

NOTIFICATION

No.SO(Estt)/PHED/1-44/2022: The competent authority is pleased to order the following postings/transfers of officers of the Public Health Engg: Department, in the interest of public service, with immediate effect:

S.#	Name	From	To
1.	Mr. Khalil-ur-Rehman, BPS-17	SDO PHE Sub Division Daggar No.1 Buner	SDO PHE Sub Division Totalai Buner (Vice S # 4)
2.	Mr. Hazrat Muhammad, BPS-17	SDO PHE Sub Division Sheringal Dir Upper	SDO PHE Sub Division Samar Bagh Dir Lower relieving the SDO PHE Sub Division Batkhehla Malakand
3.	Mr. Zia-ur-Rehman, BPS-16	SDO (OPS) PHE Sub Division Swabi	SDO (OPS) PHE Sub Division Sheringal Dir Upper (Vice S # 2)
4.	Mr. Amir Zada, BPS-16	SDO (OPS) PHE Sub Division Totalai Buner	SDO (OPS) PHE Sub Division Swabi (Vice S # 3)

2. Consequently, Mr. Imtiaz Muhammad, SDO (OPS) PHE Sub Division Daggar No.2 Buner is authorized to hold additional charge of the vacant post of SDO PHE Sub Division Daggar No.1 Buner, in addition to his own duties, till further orders.

**SECRETARY
PHE DEPARTMENT**

No.SO(ESTT)/PHED/1-44/2022:

Dated Peshawar, the June 01, 2022

Copy forwarded for information & necessary action to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Chief Engineer (North) PHE Khyber Pakhtunkhwa Peshawar.
3. Chief Engineer (Center) PHE Khyber Pakhtunkhwa Peshawar.
4. Director Technical PHE Department Peshawar.
5. Superintending Engineer PHE Circle Mardan/Swat/Malakand at Timergara.
6. Executive Engineer PHE Division Swabi/Buner/Dir Upper/Dir Lower/Malakand.
7. District Accounts Officer Swabi/Buner/Dir Upper/Dir Lower/Malakand.
8. All Section Officers PHE Department Peshawar.
9. PS to Minister for PHE Khyber Pakhtunkhwa Peshawar.
10. PS to Secretary PHE Department Khyber Pakhtunkhwa Peshawar.
11. PA to Additional Secretary PHE Department Khyber Pakhtunkhwa Peshawar.
12. Officers concerned.
13. Office Order / Personal Files.

Aslam
01/06/22
SECTION OFFICER (ESTT)

Attested
Yaqub

Attested
01/06/22
SECTION OFFICER (ESTT)



(14)
13
**GOVERNMENT OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT**

Dated Peshawar, the June 20, 2022

NOTIFICATION

No.SO(Estt)/PHED/1-44/2022: The competent authority is pleased to order the following postings/transfers of officers of the Public Health Engg: Department, in the interest of public service, with immediate effect:-

S.#	Name	From	To
1.	Mr. Muhammad Yasëen, BPS-16	SDO (OPS) PHE Sub Division Charsadda	SDO (OPS) PHE Sub Division Swabi
2.	Mr. Amir Zada, BPS-16	SDO (OPS) PHE Sub Division Swabi	SDO (OPS) PHE Sub Division Charsadda

**SECRETARY
PHE DEPARTMENT**

No.SO(ESTT)/PHED/1-44/2022:

Dated Peshawar, the June 20, 2022

Copy forwarded for information & necessary action to the:-

1. Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. Chief Engineer (North) PHE Khyber Pakhtunkhwa Peshawar.
3. Chief Engineer (Center) PHE Khyber Pakhtunkhwa Peshawar.
4. Director Technical PHE Department Peshawar.
5. SuperIntending Engineer PHE Circle Peshawar/Mardan.
6. Executive Engineer PHE Division Charsadda/Swabi.
7. District Accounts Officer Charsadda/Swabi.
8. All Section Officers PHE Department Peshawar.
9. PS to Minister for PHE Khyber Pakhtunkhwa Peshawar.
10. PS to Secretary PHE Department Khyber Pakhtunkhwa Peshawar.
11. PA to Additional Secretary PHE Department Khyber Pakhtunkhwa Peshawar.
12. Officers concerned.
13. Office Order / Personal Files.

Asam
20/6/22
SECTION OFFICER (ESTT)

Attested
Zaun



GOVERNMENT OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT

Dated Peshawar, the August 29, 2022

NOTIFICATION

No.SO(Estt)/PHED/1-44/2022: The competent authority is pleased to order the following postings/transfers of officers of the Public Health Engg: Department, in the interest of public service, with immediate effect:-

S.#	Name	From	To
1.	Mr. Muhammad Iqbal, BPS-16	Sub Engineer PHE Sub Division, Bajaur	SDO (OPS) PHE Sub Division Nawagai, Bajaur (Vise S.No 04)
2.	Mr. Amir Zada, BPS-16	SDO (OPS) PHE Sub Division Charsadda	ADE O/O Chief Engineer (South), against the vacant post
3.	Mr. Tariq Mehmood, BPS-17	SDO PHE Sub Division Takht-e-Nasratti-I Karak	SDO PHE Sub Division, Charsadda (Vise S.No 02)
4.	Mr. Aurangzeb, BPS-16	SDO (OPS) PHE Sub Division Nawagai, Bajaur	SDO PHE Sub Division Tangi, Charsadda (Vise S.No 05)
5.	Mr. Abdali Shah, BPS-16	SDO PHE Sub Division Tangi, Charsadda	SDO PHE Sub Division Takht-e-Nasratti-I, Karak (Vise S.No 03)

**SECRETARY
PHE DEPARTMENT**

No.SO(ESTT)/PHED/1-44/2022:

Dated Peshawar, the August 29, 2022

Copy forwarded for information & necessary action to the:-

1. Accountant General, Khyber Pakhtunkhwa.
2. All Chief Engineer PHE Khyber Pakhtunkhwa Peshawar.
3. Director Technical PHE Department Peshawar.
4. Superintending Engineer PHE Circle Peshawar/Kohat/Malakand at Timergara.
5. Executive Engineer PHE Division Bajaur/Charsadda/Karak.
6. District Accounts Officer Charsadda/Karak/Bajaur.
7. All Section Officers PHE Department Peshawar.
8. PS to Minister for PHE Khyber Pakhtunkhwa Peshawar.
9. PS to Secretary PHE Department Peshawar.
10. PA to Additional Secretary PHE Department.
11. Officers concerned.
12. Office Order / Personal Files.

(SHER AZAM KHAN)
SECTION OFFICER (EST)

*Attended
Jamb-*

RAF

29/8/22
29/8/22
29/8/22

1.1.2
E
15

The Secretary,
Public Health Engineering Department,
Khyber Pakhtunkhwa, Peshawar.

Through Proper Channel

Subject: DEPARTMENTAL APPEAL/REPRESENTATION AGAINST THE IMPUGNED NOTIFICATION DATED 29.08.2022 WHEREBY THE APPELLANT HAS BEEN TRANSFERRED FROM PHE SUB DIVISION CHARSADE TO THE OFFICE OF CHIEF ENGINEER (SOUTH).

Respected Sir,

With reference to the subject noted above it is stated with great respect that appellant was transferred from the PHE sub Division Charsadda and one Mr. Tariq Mehmood (BPS-17) is transferred against the post of appellant from PHE Sub Division Takht-e-Nasrati-1 Karak, vide impugned notification No.S.O(Estt.)PHED/1-44/2022 dated 29.08.2022 and the subject notification is liable to be set aside to the extent of appellant and Tariq Mehmood at serial No. 3 being illegal, unlawful and against the transfer posting policy of the provincial government as well as the rules on the subject on the following grounds amongst other:

1. That impugned transfer order is the outcome of the extraneous political pressure had not passed in exigency of service.
2. That the impugned notification is without any legal justification.
3. That the appellant has been transferred from home station PHE Sub Division Mardan to PHE sub division Totali (Buner) vide notification No.SO(Estt)/PHED/1-44/2022 dated 05.04.2022.
4. That he/ appellant assumed the charge of sub divisional officer PHE Sub Division Totali (Buner) on the next day dated 06.04.2022 in the compliance of office order of worthy Secretary.
5. That after performing duty one month and twenty four days again he was transferred to PHE sub division Swabi by the competent authority vide notification No.SO(Estt)/PHED/1-44/2022 dated 02.06.2022.
6. That on the compliance of the office order of worthy Secretary assumed the charge of the sub divisional officer PHE Sub Division Swabi on the next day 02.06.2022.

SECY PHE
City No. 373
30/8/2022

- 17
16
7. That after performing only Eighteen days duty the appellant is again transferred to Charsadda vide notification No.SO(Estt)/PHED/1-44/2022 dated 20.06.2022.
 8. That I obey the order of the Secretary and assumed the charge of PHE sub division Charsadda on 23.06.2022.
 9. That after performing of two months duty on the same station the undersigned is again transferred to ADE O/O chief Engineer (South) vide notification No.SO(Estt)/PHED/1-44/2022 dated 29.08.2022.
 10. That I have been made a rolling stone on frequent transfer within short span of time before the completion of tenure on the relevant station.
 11. That due to frequently transfer/posting the appellant is deprived from receiving monthly salary for the last of Three months.
 12. That transfer is completely premature and violation of the provision of transfer/posting policy.
 13. That the transfer is biased on serious and grave personal (humiliation) ground.
 14. That subjected notification is completely against the Transfer/Posting policy and judgment of Honorable Supreme Court of Pakistan. The same need as positive review in the interest of justice.
 15. That keeping in view the facts mentioned above the department was supposed to allow the appellant to complete at least the normal tenure of two years at a station but he hardly served any station for two to three months.

It is, therefore, requested that impugned notification dated 29.08.2022 may very kindly be set aside to the extent of appellant and the official at serial No. 2 namely ~~Mr. Amir Zada~~ the appellant be allowed to complete his normal tenure at Charsadda.

Dated: 30.08.2022

*Attested
Yours.*

Yours Obediently

AMIR ZADA
30.8.22

AMIR ZADA
SUB DIVISION OFFICER
PHE SUB DIVISION CHARSADDA

F
17
GOVERNMENT OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT

Dated Peshawar, the August 31, 2022

NOTIFICATION

No.SO(Estt)/PHED/1-44/2022: The competent authority is pleased to cancel/withdrawn of this Department notification of even No. dated 29.08.2022 from the date of its issuance.


**SECRETARY
PHE DEPARTMENT**

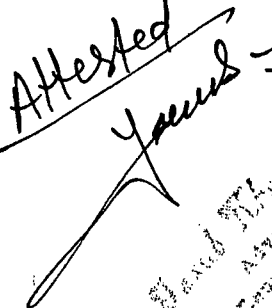
No.SO(ESTT)/PHED/1-44/2022:

Dated Peshawar, the August 31, 2022

Copy forwarded for information & necessary action to the:-

1. Accountant General, Khyber Pakhtunkhwa.
2. All Chief Engineer PHE Khyber Pakhtunkhwa Peshawar.
3. Director Technical PHE Department Peshawar.
4. District Monitoring Officer, NA-24, Charsadda-II.
5. Superintending Engineer PHE Circle Peshawar/Kohat/Malakand at Timergara.
6. Executive Engineer PHE Division Bajaur/Charsadda/Karak.
7. District Accounts Officer Charsadda/Karak/Bajaur.
8. All Section Officers PHE Department Peshawar.
9. PS to Minister for PHE Khyber Pakhtunkhwa Peshawar.
10. PS to Secretary PHE Department Peshawar.
11. PA to Additional Secretary PHE Department.
12. Officers concerned.
13. Office Order / Personal Files.


31/8/22
(SHER AZAM KHAN)
SECTION OFFICER (ESTT)

Attested
Yaqub

Yaqub
Assistant Secretary
Public Health Engineering Department

To be substituted of this Department Notificatin of even No. & dated



**GOVERNMENT OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT**

Dated Peshawar, the September 13, 2022

NOTIFICATION

No.SO(Estt)/PHED/1-44/2022: The competent authority is pleased to order the following postings/transfers of officers of the Public Health Engg: Department, in the interest of public service, with immediate effect:-

S.#	Name	From	To
1.	Mr. Muhammad Iqbal, BPS-16	Sub Engineer PHE Sub Division, Bajaur	SDO (OPS) PHE Sub Division Nawagai, Bajaur
2.	Mr. Amir Zada, BPS-16	SDO (OPS) PHE Sub Division Charsadda	ADE O/O Chief Engineer (South), against the vacant post
3.	Mr. Aurangzeb, BPS-16	SDO (OPS) PHE Sub Division Nawagai, Bajaur	SDO (OPS) PHE Sub Division, Charsadda

**SECRETARY
PHE DEPARTMENT**

No.SO(ESTT)/PHED/1-44/2022:

Dated Peshawar, the September 13, 2022

Copy forwarded for Information & necessary action to the:-

1. Accountant General, Khyber Pakhtunkhwa.
2. All Chief Engineer PHE Khyber Pakhtunkhwa Peshawar.
3. Director Technical PHE Department Peshawar.
4. Superintending Engineer PHE Circle Peshawar/Kohat.
5. Executive Engineer PHE Division Bajaur/Charsadda/Karak.
6. District Accounts Officer Charsadda/Karak/Bajaur.
7. All Section Officers PHE Department Peshawar.
8. PS to Minister for PHE Khyber Pakhtunkhwa Peshawar.
9. PS to Secretary PHE Department Peshawar.
10. PA to Additional Secretary PHE Department.
11. Officers concerned.
12. Office Order / Personal Files.

Attested
[Signature]
[Signature]
13/9/22
(SHER AZAM KHAN)
SECTION OFFICER (ESTT)

9/b

(6)



**GOVERNMENT OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG. DEPARTMENT**

Dated Peshawar, the September 13, 2022

NOTIFICATION

No.SO(ESTT)/PHED/1-44/2022: The competent authority is pleased to order the following postings/transfers of officers of the Public Health Enng. Department, in the interest of public service, with immediate effect:-

S.#	Name	From	To
1.	Mr. Muhammad Iqbal, BPS-16	Sub Engineer PHE Sub Division, Bajaur	SDO (OPS) PHE Sub Division Nawagai, Bajaur (Vise S.No 04)
2.	Mr. Amir Zada, BPS-16	SDO (OPS) PHE Sub Division Charsadda	ADE O/O Chief Engineer (South); against the vacant post
3.	Mr. Tariq Mehmood, BPS-17	SDO PHE Sub Division Takht-e-Nasratti-I Karak	SDO PHE Sub Division, Charsadda (Vise S.No 02)
4.	Mr. Aurangzeb, BPS-16	SDO (OPS) PHE Sub Division Nawagai, Bajaur	SDO PHE Sub Division Tangl, Charsadda (Vise S.No 05)
5.	Mr. Abdali Shah, BPS-16	SDO PHE Sub Division Tangl, Charsadda	SDO PHE Sub Division Takht-e-Nasratti-I, Karak (Vise S.No 03)

**SECRETARY
PHE DEPARTMENT**

No.SO(ESTT)/PHED/1-44/2022:

Dated Peshawar, the September 13, 2022

Copy forwarded for information & necessary action to the:-

1. Accountant General, Khyber Pakhtunkhwa.
2. All Chief Engineer PHE Khyber Pakhtunkhwa Peshawar.
3. Director Technical PHE Department Peshawar.
4. Superintending Engineer PHE Circle Peshawar/Kohat/Malakand at Timergara.
5. Executive Engineer PHE Division Bajaur/Charsadda/Karak.
6. District Accounts Officer Charsadda/Karak/Bajaur.
7. All Section Officers PHE Department Peshawar.
8. PS to Minister for PHE Khyber Pakhtunkhwa Peshawar.
9. PS to Secretary PHE Department Peshawar.
10. PA to Additional Secretary PHE Department.
11. Officers concerned.
12. Office Order / Personal Files.

Handwritten signature

Handwritten signature
**(SHER AZAM KHAN)
SECTION OFFICER (ESTT)**



GOVERNMENT OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT

Dated Peshawar, the September 27, 2022

NOTIFICATION

No.SO(Estt)/PHED/1-44/2022: The competent authority is pleased to held in abeyance this department notification of even No. dated 13-09-2022 till culmination of by election process in NA-24 Charsadda-II, In the interest of public service, with immediate effect.

**SECRETARY
PHE DEPARTMENT**

No.SO(ESTT)/PHED/1-44/2022:

Dated Peshawar, the September 27, 2022

Copy forwarded for information & necessary action to the:

1. Accountant General, Khyber Pakhtunkhwa.
2. All Chief Engineer PHE Khyber Pakhtunkhwa Peshawar.
3. Director Technical PHE Department Peshawar.
4. Superintending Engineer PHE Circle Peshawar/Kohat.
5. Executive Engineer PHE Division Bajaur/Charsadda/Karak.
6. District Accounts Officer Charsadda/Karak/Bajaur.
7. Dy. Director (M&T) Provincial Election Commission, Charsadda Khyber Pakhtunkhwa.
8. All Section Officers PHE Department Peshawar.
9. PS to Minister for PHE Khyber Pakhtunkhwa Peshawar.
10. PS to Secretary PHE Department Peshawar.
11. PA to Additional Secretary PHE Department.
12. Officers concerned.
13. Office Order / Personal Files.

Azam
27/9/22
**(SHER AZAM KHAN)
SECTION OFFICER (ESTT)**

*Attested
yus*

*Yusuf Khan
Section Officer (ESTT)
PHE Department Peshawar*

The Secretary
Public Health Engineering
Deptt. Khyber Pakhtunkhwa
Peshawar.

SECY PHE
No. 695
26/9/22

Subj.: Representation/departmental appeal against the
impugned notification under no. SO (EST) PHE/1-44/2022
dated 13/09/2022, whereby the applicant has been removed
from the Subdivision Charsadda to the C/O Chief Engineer (Civil)

R/sr: With reference to the above it is stated that the applicant
is transferred from PHE Subdivision Charsadda and one Mr. Azeem Zeb
is transferred and posted against the post of applicant
subjected notification. The subjected notification is liable
to be set aside to the extent of the applicant and one
Mr. Azeem Zeb Section No. 3 being illegal, unlawful
and against the transfer policy of the provincial
government as well as not in the best interest of public.
The present representation is submitted in the continuation
of previous appeal Secy PHE Chamy No. 373 dt 30/8/2022.
(copy attached which is self explanatory).

(P.T.O)

(P-2)

(19)

That I have been made a rolling stone and spent span of time (4 months) six time transferred from one station to other station.

That due to frequently transferring the applicant is deprived from salary from the last of few months. The transfer is completely immature and violators of the transferring policy. The notification is issued on such occasion where the board is imposed on transferring vide ECP.F. (7/2022-Cad (1) Islamabad 5/08/2022. in district Charsadda.

That keeping in view of the facts the impugned notification No. SO (EST) PHE/1-43 dt 13/9/2022 may be canceled and the applicant to be allow complete the tenure (2 year).

Yours

Yours obediently
Amir Zada
Sub division Officer
PHE Sub division
Charsadda.

dt 20/09/2022

Attested
Yours

To,
The Secretary Public Health
Engineer Department
Khyber Pakhtunkhwa Peshawar

SECY PHE
Dairy No 695
Dated: 20-09-2022

Subject: Representation / Departmental appeal against impugned notification vide No SO(ESTT)PHED/1-44/2022 dated: 13-09-2022 where by the applicant has been transferred from the sub division Charsadda to the O/O Chief Engineer (South)

Respected Sir,

With reference to the above it is stated that the applicant has transferred from PHE Sub Division Charsadda and one Mr. Aurangzeb is transferred and posted against the post of applicant vide subjected notification. The subjected notification is liable to be set aside to the extent of applicant and one Mr. Aurangzeb Serial No. 3 being illegal, unlawful and against the transferred posting policy of the provincial government as well as not in the best interest of public.

The present representation is submitted in the continuation of previous appeal SECY PHE Dairy No. 373 dated: 30-08-2022. (Copy attached which is self-explanatory)

62

"ANNEX E" (19)

That I have been made a rolling stone and short span of time (4 Months) six times transferred from one station to other station. That due to frequently transfer / Posting the applicant is derived from salary from the last of 4 Months.

The transferred is completely immature and violation of the transfer posting policy. The notification is issued on such occasion where the ban is imposed on transfer / posting vide ECP. F. 8 (9)2022-Cord-2 Islamabad 05-08-2022 in district Charsadda.

That keeping in views the facts the impugned notification No. SO(ESTT)PHED/1-44/2022 dated 13-09-2022 may be cancel and the applicant to allow complete the tenure (2 years).

Thanks

Dated: 20-09-2022

Your Obediently

Amir Zada
SUB DIVISIONAL OFFICER
PHE CHARSADE
Cell # 0333-9864637
CNIC # 16101-7667994-3

Attested
Yacob
Waqar Ahmad
Amir Zada
PHE Charasadda



63 J

GOVERNMENT OF KHYBER PAKHTUNKHWA
PUBLIC HEALTH ENGG: DEPARTMENT
(Civil Secretariat, Technical Block, Police Lane Road, Peshawar)

NO.SOE/PHED/1-44/021
Dated Peshawar, the October 19, 2022

HEDKPGovt PHEDKPGovt Msoephed@gmail.com 0919210857 0919213922

Mr.Amir Zada,
SDO (ORS), PHE Sub Division, Charsadda

Subject:

REPRESENTATION/ DEPARTMENTAL APPEAL AGAINST IMPUGNED NOTIFICATION DATED 13.09.2022 WHEREBY THE APPEALANT HAS BEEN TRANSFERRED FROM THE SUB DIVISION CHARSADDA TO CHIEF ENGINEER (SOUTH) PHED

I am directed to refer to your appeal No.nil dated 20/09/2022 on the subject noted above and to inform that your representation/appeal was considered and rejected.

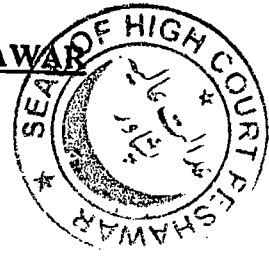

SECTION OFFICER (ESTT)

*Attested
Juss*

24 K



BEFORE THE PESHAWAR HIGH COURT, PESHAWAR



W.P No. 3728P /2022

AMIR ZADA S/O BAHADAR KHAN SUB DIVISIONAL OFFICER (OPS)
PHE CHARSADEA RESIDENT OF QASIM (TORU) TEHSIL GHARI
KAPURA DISTRICT MARDAN.....

Petitioner

VERSUS

1. THE GOVERNMENT OF KHYBER PAKHTUNKHWA THROUGH CHIEF SECRETARY PESHAWAR.
2. THE SECRETARY PUBLIC HEALTH ENGINEERING DEPARTMENT, KHYBER PAKHTUNKHWA, PESHAWAR
3. THE CHIEF ENGINEER PHE (CENTER) PUBLIC HEALTH DEPARTMENT PESHAWAR
4. THE SUPERINTENDENT ENGINEER PHE CIRCLE PESHAWAR
5. THE EXECUTIVE ENGINEERS PHE DIVISION CHARSADEA
6. THE ACCOUNTANT GENERAL, KHYBER PAKHTUNKHWA PESHAWAR
7. THE DISTRICT ACCOUNTS OFFICER CHARSADEA
8. THE TARIQ MEHMOOD SUB DIVISIONAL OFFICER.
9. MR. AURANGZEB SUB DIVISIONAL OFFICER.

RESPONDENTS

Filed today.

[Signature]
7th SEP 2022

~~ATTESTED~~
EXAMINER
Peshawar High Court

Incharge,
Peshawar High Court Sub-Registry,
Mardan.

65

②

WRIT PETITION UNDER ARTICLE: 199 OF THE
 CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN,
 1973, AGAINST THE IMPUGNED OFFICE
 ORDER/NOTIFICATION VIDE NO.SO (ESTT)/PHED/1-44-
 2022 DATED 13-09-2022 WHEREBY THE PETITIONER
 HAS PREMATURELY BEEN TRANSFERRED FROM THE
 OFFICE OF THE SDO (OPS) PHE SUB DIVISION
 CHARSA DA TO ADE O/O CHIEF ENGINEER (SOUTH)
 PESHAWAR AND AGAINST NO ACTION TAKEN ON THE
 DEPARTMENTAL APPEAL OF THE PETITIONER.

=====

Respectfully Sheweth:

Brief Facts giving rise to this writ petition are submitted as under:

- 1) That the petitioner is working in the Public Health Department as a SDO and presently performing duties in PHE Sub Division Charsadda.
- 2) That the petitioner has performed unblemished and satisfactory performance in the department and having no stigma or complaint against the petitioner during entire service.
- 3) That the petitioner was transferred from home station PHE sub Division Mardan to PHE sub division Totali (Buner) vide notification No.So(Estt)/PHED/1-44/2022 dated 05-04-2022, in compliances of the same order he assumed the charge at the new place of posting where he served for a term of one month and twenty four days.
- 4) That the petitioner after such duration of performing the duty was again transferred from PHE sub division Totali (Buner) to PHE Sub Division Swabi vide notification No.So(Estt)/PHED/1-44/2022 dated 01-06-2022, where he performed his duty for eighteen days

(Copy of the notification dated 05-04-2022 is annexed here with)

ATTESTED
 EXAMINER
 Peshawar High Court

Locharge,
 Peshawar High Court Sub-Registry,
 2311.

27 SEP 2022

Filed today

26



(Copy of the notification 01-06-2022 is annexed here with)

- 5) That after that he was again transferred from PHE Sub Division Swabi to SDO (OPS) PHE Sub Division Charsadda vide notification No.So(Estt)/PHED/1-44/2022 dated 20-06-2022.

(Copy of the notification 20-06-2022 is annexed here with)

- 6) That new order of transfer via notification No.So(Estt)/PHED/1-44/2022 dated 29-08-2022 from charsada to ADE O/O Chief Engineer (south), against the vacant post is made.

(Copy of the notification 29-08-2022 is annexed here with)

- 7) That the after the above notification, the petitioner made a departmental appeal (diary number 373) on 30-08-2022.

(copy of the departmental appeal is attached)

- 8) That order of the 29-08-2022 was cancel through the notification No.So(Estt)/PHED/1-44/2022 dated 31-08-2022.

(Copy of the notification 31-08-2022 is annexed here with)

- 9) That a new impugned notification no.So (Estt)/PHED/1-44/2022 dated 13-09-2022 was issued through which the order of the 29-08-2022 was restored in original shape. In this notification Mr.Tariq Mehmood (SDO) was transferred/posted against the petitioner.

(Copy of the notification 13-09-2022 is annexed here with)

- 10) That after that a new impugned notification bearing same date and number (no.So (Estt)/PHED/1-44/2022 dated 13-09-2022) was issued, through which the Mr. Aurazeb (BPS-16) was transferred/posted against the petitioner post. It is worth mentioned that the impugned notification bears the same date and notification, but only a slight change is made, which is the change of the person transferred against the petitioners post.

- 11) That the 2nd departmental appeal is submitted to the worthy secretary PHE against the notification no s.o(Estt) PHED/1-44/22 dated 13/09/2022 vide dairy number 695 dated 20-09-2022 for the sympathetic consideration.

(copy of the departmental appeal is annexed here with)

ATTESTED
EXAMINER
Peshawar High Court

locharge,
Peshawar High Court, Sub-Registry,
Mardan.

7 SEP 2022

Filed today

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GROUNDS

- A. That the petitioner has served the department for sufficient time with zeal and devotion and no adverse remarks are available in his service record.
- B. That the petitioner has not been treated by the respondent department in accordance with and rules on the subject above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic republic of Pakistan.
- C. That the petitioner was transferred so many times just in the same year 2022 from the month of April to August, without any reasons in violation of transfer and tenure policy which is also against the law, rules, and judgment of august Supreme court of Pakistan enshrine in Anita Turab VS Federation of Pakistan reported on 2013 PLD SC P 195.
- D. That likewise, the impugned order dated 13-09-2022 of the Department/Secretary PHE qua transfer of the petitioner not being permissible and the same being whimsical, arbitrary and punitive in nature and therefore, in violation of fundamental rights of the Constitution of Islamic Republic of Pakistan of 1973 and in contravention of rules and policy, therefore not tenable in the eyes of law.
- E. That the petitioner has not been completed his tenure in Charsadda Sub Division and the normal period of posting of a Government Servant at a station, according to the 21 of the rules of business is three years, which has to be followed in the ordinary circumstance, unless for reasons or exigencies of service a transfer before expiry of the said period becomes necessary thus the said transfer without completion of tenure is against the law and rules, constitution and fundamental rights.
- F. That the transfer of the petitioner is against the tenure, appointment, promotion and posting/transfer are of utmost importance in the civil service, and the same will rightly be considered and treated as part of the terms and conditions of service of a civil servant. If, however, rules and instructions are deviated from and as a result merit is discouraged on account of favouritism, Sifarish or considerations other than merit, it

ATTESTED
EXAMINER
Peshawar High Court

Filed today

22 SEP 2022

Incharge,
Peshawar High Court Sup-Registry,
Mardan.

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should be evident that civil service will not remain independent or efficient in this regard reliance upon Constitution petition no 23/2012 petition by Ms. Anita Turab Vs Government of Pakistan etc.

- G. That act of the respondents department is based on of political influence and without tenure policy transfers against the law and judgments of superior courts relied upon the relevant para of judgements of Supreme Court of Pakistan 1996 SCMR 1185 titled hammed Akhtar Naizi Vs The Secretary Establishment Division, Government of Pakistan relevant part is reproduced here for ease of reference,

"If the service tribunal or supreme court decides a point of law relating to the terms of service of a civil servant which covers not only to the case of civil servant who litigated, but also of the other civil servant, who may have not taken any legal proceedings, in such a case, the dictates and rule of good governance demand that the benefit of such judgement by service tribunal/Supreme court be extended to other civil servants, who may not be parties to the litigation instead of compelling them to approach the service tribunal or any other forum".

- H. That the petitioner craves permission of this Honourable Tribunal to advance any other ground at the time of hearing and to submit any other arguments/documents if necessary, in support of this service appeal.

PRAYER:

ON ACCEPTANCE OF THE INSTANT WRIT PETITION THE IMPUGNED OFFICE ORDER no SO (ESTT)/PHED/1-44-2022 DATED 13-09-2022 MAY PLEASE BE SET-ASIDE AND THE SAME MAY BE DECLARED AS ILLEGAL, UNLAWFUL, WITHOUT LAWFUL AUTHORITY, VIOD-AB-INTIO AND IN SHEER VIOLATION OF BAN IMPOSED BY ELECTION COMMISSION OF PAKISTAN VIA NOTIFICATION NOF.8(7)/2022-CORD (4) DATED 05-08-2022, AND EVIDENTLY AN OUTCOME OF POLITICAL MOTIVATION,

ATTESTED
EXAMINER
Peshawar High Court

Incharge,
Peshawar High Court Sub-Registry,
Mardan.

27 SEP 2022

Filed today.

THEREFORE RESPONDENTS MAY BE DIRECTED TO WITH DRAW THE ABOVE STATED ORDER AND APPELLANT MAY NOT BE TRANSFER FROM HIS PRESENT POST SDO (OPS) PHE SUB DIVISION CHARSADA TILL THE COMPLETION OF THE STATUTORY TENURE. ANY OTHER REMEDY WITH THIS AUGUST TRIBUNAL DEEMS FIT THAT MAY ALSO BE AWARDED IN FAVOUR OF THE PETITIONER.

INTERIM RELIEF:

BY WAY OF INTERIM RELIEF, THE OPERATION OF THE IMPUGNED OFFICE ORDER NO.SO (ESTT)/PHED/1-44-2022 DATED 13-09-2022 MAY KINDLY BE SUSPENDED TILL THE DISPOSAL OF THE CASE.

Filed today,

27 SEP 2022

Incharge,
Peshawar High Court Sub-Registry,
Mardan.

Appellant

Through

(Abdur Rasheed Pir Zada)

ABDUR RASHID PIR ZADA
Advocates, High Court
Peshawar High Court
Distt. Court Mardan

Peshawar

Dated: 22.09.2022

ATTESTED

EXAMINER

Peshawar High Court

ed/cp

30

7

BEFORE THE HON'BLE PESHAWAR HIGH COURT PESHAWAR

WP No. 37281 /2022

Amir ZadaPetitioner

VERSUS

Chief Secretary & others.....Respondent

AFFIDAVIT

I, Amir Zada S/o Bahadar Khan R/o Haji Bahadar Khan Kothay, Sharif Abad, Tehsil & District Mardan, 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

[Signature]

DEPONENT

CNIC # 16101-766794-3 ✓

Cell # 0333-9864637

Identified By: *

[Signature]

ABDUR RASHEED PIR ZADA
Advocate, Peshawar

ABDUR RASHEED PIR ZADA
Advocate
Peshawar High Court
Dist: Court Mardan

Filed today.

[Signature]
22 SEP 2022

Incharge,
Peshawar High Court Sub-Registry,
Mardan.

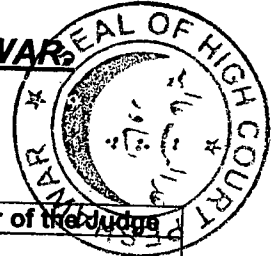
No. <u>37281</u>
Certified that the above was verified on solemnly affirmation before me in office, this <u>22</u> day of <u>Sep</u> 2022 by <u>Amir Zada</u> s/o <u>Bahadar Khan</u> <u>Mardan</u> who was identified by <u>Abdur Rasheed Pir Zada</u> who is personally known to me:
<i>[Signature]</i> Oath Commissioner Peshawar High Court, Peshawar

[Signature]
22/09/2022

10 OCT 2022

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PESHAWAR HIGH COURT, PESHAWAR



**FORM 'A'
FORM OF ORDER SHEET**

Date of order.	Order or other proceedings with the order of the Judge
05.10.2022	<p><u>W.P.No.3728-P of 2022 with interim relief.</u></p> <p>Present: Mr.Abdur Rashid Pirzada, advocate for the petitioner.</p> <p>Mr.Arshad Ahmad, AAG alongwith Mr.Kamran Shahid, Assistant Social Organizer, PHE Department for the respondents.</p> <p>-----</p> <p><u>LAL JAN KHATTAK, J.-</u> Amir Zada petitioner, through the instant petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, has prayed to this court for issuance of a writ to the following effect:-</p> <p>"On acceptance of the instant writ petition, the impugned office order No.SO (Estt)/PHED/1-44-2022 dated 13.09.2022 may please be set aside and the same may be declared as illegal, unlawful, without lawful authority, void-ab-initio and in sheer violation of ban imposed by Election Commission of Pakistan vide Notification No.F8(7)/2022-Cord (4) dated 05.08.2022, and evidently an outcome of political motivation, therefore, respondents may be directed to withdraw the above stated order and appellant may not be transferred from his present post SDO (OPS) PHE Sub-division Charsadda till the completion of the statutory tenure."</p> <p>2. Arguments heard and record gone through.</p>

Jan

ATTESTED
EXAMINER
Peshawar High Court

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3. Admittedly the petitioner is a civil servant and posting and transfer is one of the terms and conditions of his service and if any term and condition of service of a civil servant is violated by his department, then in that eventuality, he can approach the Services Tribunal established by the Government for that purpose and on no count he can come to this court for the enforcement of any of the terms and conditions of his service keeping in view the bar contained in Article 212 of the Constitution of Islamic Republic of Pakistan, 1973.

4. For what has been discussed above, this petition is hereby dismissed in limine for its being not maintainable before this court, however, the respondents are directed to decide the petitioner's appeal within 07 days from today.


Jain
 JUDGE

[Signature]
 JUDGE

10 OCT 2022

53116
 Date of Presentation of Application 6/10/2022
 No of Pages 9
 Copying fee 36/-
 Total 36/-
 Date of Preparation 10/10/2022
 Date of Filing 10/10/2022
 Amir Zadeh

(33)

L annex of n 

The Provincial Election Commission
Khyber Pakhtoon Khwa Peshawar.

Sub:- Complaint against transfer/posting vide notification
No. S.O (ESH) PHE/1-44/2022 dt 13/09/2022

R/cmt:-

It is stated that the applicant Mr. Anir goda
SDO PHE Sub-division Charsadda is transferred to
O/o Chief Engineer (Civil) Peshawar, which is viol-
ation of bar imposed by ECP in district Charsadda.
The transfer is a pilly based on extraneous political
pressures ^{and} not in the interest of Public.

It is requested that subjectal notification
issued by Secretary PHE may be withdrawn or cancel
till the completion of election process or expiry of bar
imposed by EPC. (order copy attached)

Shuley your's antyphatza

Dt. 20/9/2022

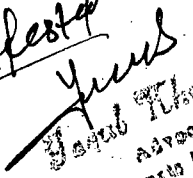
cell: -0333-9864637.

PHK H - 16001-7667994-3

Yours sincerely

Anir goda

SDO PHE Charsadda

Attested
Yours

Advocate,
Khyber Pakhtoon Khwa

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The Provincial Election Commission
Khyber Pakhtunkhwa Peshawar

Subject: COMPLAINT AGAINST TRANSFER / POSTING VIDE NOTIFICATION
NO # S.O(ESTT)PHED/1-44/2022 DATED: 13-09-2022

Respected Sir,

It is stated that the applicant Mr. Amir Zada SDO PHE sub division Charsadda his transferred to O/O Chief Engineer (South) Peshawar, which is violation of bane imposed by ECP in district Charsadda. The transfer is completely based on extraneous political presser and not in the interest of public.

It is requested that the subjected notification issued by secretary PHED may be withdraw are cancel till the completion of election process or expiry of bane imposed by ECP. (Order Copy Attached)

Thanking You & Anticipation

Dated: 20/09/2022

*Alleged
Amir Zada*

Yours Sincerely

sd x x x x

Amir Zada
SDO PHE Charsadda
Cell # 0333-9864637
CNIC # 16101-7667994-3

M

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No.F.14 (7)/2020-EIs (PEC)
OFFICE OF THE
PROVINCIAL ELECTION COMMISSIONER
KHYBER PAKHTUNKHWA

BYE-ELECTIONS-2022
TOP PRIORITY

Shami Road, Peshawar Cantt.
Wednesday, August 10, 2022

1. The PSO to Chief Secretary,
Govt. of Khyber Pakhtunkhwa.
2. The Provincial Police Officer,
Khyber Pakhtunkhwa
3. The Principal, Secretary, to Governor,
Khyber Pakhtunkhwa.
4. The Principal Secretary to Chief Minister,
Khyber Pakhtunkhwa
5. The Secretary,
Home and Tribal Affairs,
Govt. of Khyber Pakhtunkhwa
6. The Secretary,
Establishment,
Govt. of Khyber Pakhtunkhwa
7. The Secretary,
Local Govt. & Rural Dev. Department,
Govt. of Khyber Pakhtunkhwa
8. The Secretary,
Elementary Education
Govt. of Khyber Pakhtunkhwa
9. The Secretary,
Higher Education
Govt. of Khyber Pakhtunkhwa.
10. The Secretary,
Provincial Assembly,
Khyber Pakhtunkhwa, Peshawar.

Subject: - ECP NOTIFICATION REGARDING BAN ON POSTING/
TRANSFERS AND ANNOUNCING OF DEVELOPMENT
SCHEME IN CONSTITUENCIES NO. NA-22 MARDAN-III,
NA-24 CHARSADEA-II, NA-31 PESHAWAR-V AND
NA-45 KURRAM-I

Dear Sir,

I am directed to enclose herewith, the Election Commission of Pakistan, Islamabad's Notification No.F.8(9)/2022-Cord-2, dated the 05th August 2022, for kind information with the request that the instructions of the Hon'ble Election Commission, contained therein, may kindly be followed in letter and spirit.

Yours faithfully,

Encl:- As above.

*Attested
Zada*

gdx xk
(KHUSHAL ZADA)
Director (Elections)

Cont-p-2/-

Copy alongwith copy of the above is forwarded for information and necessary action to:-

1. The District Returning Officers,
NA-22. Mardan-III, NA-24 Charsadda-II, NA-31 Peshawar-V and
NA-45 Kurram-I.
2. The Returning Officers,
NA-22. Mardan-III, NA-24 Charsadda-II, NA-31 Peshawar-V and
NA-45 Kurram-I.
3. District Election Commissioners, Peshawar, Charsadda, Mardan and
Kurram with the advice to get the notification conveyed to all concerned
for their information and strict compliance of the directions of Hon'ble
Election Commission contained therein in its true letter and spirit.

(KHUSHAL ZADA)
Director (Elections)

10.8.22

ELECT

No.F.80
of Islamic Republic
Elections Act, 20

(i)

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ELECTION COMMISSION OF PAKISTAN
NOTIFICATION

Islamabad the 5th August, 2022

No.F.8(7)/2022-Cord (4).- In pursuance of Article 218(3) of the Constitution of Islamic Republic of Pakistan read Sub-Section 4 of Section 5 and Section 181 of the Elections Act, 2017, the Election Commission of Pakistan is hereby pleased to direct that:

- (i) No Government or authority shall post or transfer any officer in the district, where schedule for bye-election in constituency No.PP-209 Khanewal-VII has been issued on 05th August, 2022, till the publication of name of returned candidate.
- (ii) No Government functionary or elected representative including a local government functionary shall announce any development scheme for the constituency, where election is under process till 02nd October, 2022.

By order of the Election Commission of Pakistan.

Tauqir Iqbal
(Tauqir Iqbal)
Deputy Director (Cord.)

To:

The Manager,
Printing Corporation of Pakistan Press,
Islamabad.

[For publication in the Gazette of Pakistan,
Extraordinary (Part-III) of today's date.]

Attested
Yousuf

Attested
Secretary
Election Commission
Islamabad

بعدالت سرسبز لائسنس لٹری

مورخہ 22 اکتوبر 2022ء منجانب: اللہ نیک
 مقدمہ بعنوان اعتراف بنام Chief Secy etc
 مقدمہ نمبر / رجوعہ
 نوعیت مقدمہ
 مقدمہ علت نمبر رسل مورخہ
 جرم تھانہ

50
روپے

باعث تحریر آنکہ



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

آن مقام لٹری کے لیے اعتراف لٹری کو وکیل مقرر
 کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا، نیز وکیل مقررہ کو راضی نامہ کرنے و تقرر
 ی ثالث و فیصلہ برحلف دیئے عرضی دعویٰ، جواب دعویٰ، اقبال دعویٰ، جواب الجواب، عذر داری، درخواست زیر دفعہ (2) 12
 ض د، درخواست بمراد برآمدگی و سرسبزگی مقدمہ، درخواست بمراد منسوخی کاروائی و ڈگری یکطرفہ دائر کرنے جواب، جواب
 الجواب وغیرہ درخواست کاروائی اجراء دائر کرنے و وصولی چیک و رقم اور درخواست از ہر قسم کی تصدیق زراس پر دستخط وغیرہ
 کرنے کا اختیار ہوگا۔ اپیل، اپیل دراپیل، نگرانی، نظر ثانی، رٹ و عذر داری وغیرہ دائر کرنے کا بھی اختیار ہوگا۔ اور بصورت
 ضرورت مذکورہ کے عمل یا جزوی کاروائی کے واسطے وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب
 مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اس کا ساختہ برداختہ منظور و قبول ہوگا اور دوران مقدمہ میں جو خرچہ دہر
 جانہ التوائے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کا بھی اختیار ہوگا۔ اگر کوئی
 تاریخ پیشی پر وکیل موصوف مقام دورہ پر ہو یا حد سے باہر ہو یا بیمار ہو یا کوئی ضروری کام ہو۔ تو وکیل صاحب پابند نہ ہونگے کہ
 پیروی مقدمہ مذکورہ کریں لہذا وکالت نامہ لکھ دیا تاکہ سند رہے۔

المقوم: 22/10/22

مقام کے لئے منظور ہے۔

نوٹ: اس وکالت نامہ کو فونو کاپی ناقابل قبول ہوگی۔

Advocate I.D:

Bar Council

Bar Association

Contact #:

0321-9309427

Attested & Accepted
 Emboss
 Advocate,
 District Court, Faisalabad

اعتراف