

26.10.2022

Nemo for the appellant. Mr. Muhammad Riaz Khan Paindakhel, Assistant Advocate General for the respondents present.

Due to strike of lawyers, arguments could not be heard. Adjourned. To come up for arguments as well as payment of Rs. 10000/- before the D.B on 02.12.2022



(Mian Muhammad)
Member (E)



(Salah-ud-Din)
Member (J)

2nd Dec. 2022

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

Learned counsel for the appellant seeks adjournment on the ground that he has not prepared the case. Adjourned but as last chance. To come up for arguments as well as payment of cost of Rs.10000/ on 17.02.2023 before the D.B.



(Fareeha Paul)
Member(Executive)



(Kalim Arshad Khan)
Chairman

SCANNED
KFST
Peshawar

SCANNED
KFST
Peshawar

30.08.2022

Learned counsel for the appellant present. Mr. Naseer Ud Din Shah, Assistant Advocate General for the respondents present.

Learned Member (Judicial) Mrs. Rozina Rehman is on leave, therefore, arguments could not be heard. Adjourned. To come up for arguments on 04.10.2022 before the D.B.



(Salah-Ud-Din)
Member(J)

4th October, 2022 Appellant in person present. Syed Naseer Ud Din Shah, Asst: AG for respondents present.

On 09.05.2022, last chance was given to the appellant to argue the case but today he again sought adjournment on the ground that his counsel is not available today. Adjourned on the payment of Rs. 10000/- which will be deposited before the arguments. To come up for arguments on 26.10.2022 before the D.B, failing which the case will be decided on the available record without arguments.



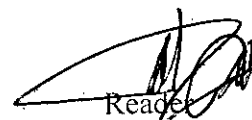
(Fareeha Paul)
Member(Executive)



(Kalim Arshad Khan)
Chairman.

25.02.2022

Due to retirement of the Worthy Chairman, the Tribunal is defunct, therefore, case is adjourned to 31.03.2022 for the same as before.




Reader

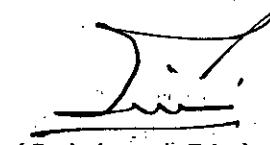
31.03.2022

Appellant in person present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Appellant requested for adjournment on the ground that his counsel is busy in the august Peshawar High Court, Peshawar. Adjourned. To come up for arguments on 09.05.2022 before the D.B.



(Rozina Rehman)
Member (J)

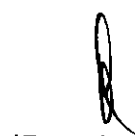


(Salah-ud-Din)
Member (J)

09.05.2022

Appellant in person present. Mr. Kabirullah Khattak, Addl. AG for the respondents present.

Appellant requested for adjournment on the ground that his counsel is not available today. Last opportunity is granted. To come up for arguments before the D.B on 10.06.2022.



(Fareeha Paul)
Member (E)



Chairman

10.06.2022

Bench is incomplete, therefore, case is adjourned to 30.08.2022 for the same as before.

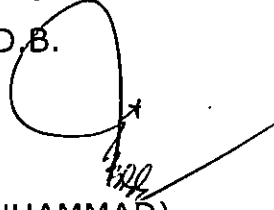


Reader.

22.10.2021

Appellant in person present. Mr. Muhammad Adeel Butt,
Additional Advocate General for the respondents present

Appellant requested for adjournment on the ground that
his counsel is busy in the august Peshawar High Court,
Peshawar. Adjourned. To come up for arguments on 14.12.2021
before the D.B.



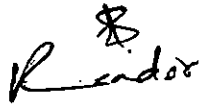
(MIAN MUHAMMAD)
MEMBER (E)



(SALAH-UD-DIN)
MEMBER (J)

14-12-21

DB is on Tour case to come up?
For the same on Dated. 14/11/22



Rindor


14.01.2022

Junior to counsel for the appellant present.
Muhammad Adeel Butt, Addl. AG for respondents present.

Former made a request for adjournment as senior
counsel for the appellant is not available today. Adjourned. To
come up for arguments before the D.B on 25.02.2022.



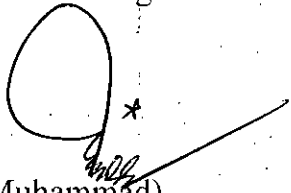

(Atiq-Ur-Rehman Wazir)
Member (E)


Chairman

26.02.2021

Appellant with counsel Abdur Rashid, DDA for the respondents present.

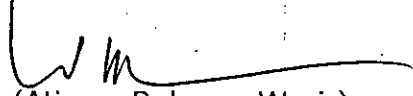
The Hon'ble Chairman is on leave. Due to incomplete bench, the matter is adjourned to 26.03.2021 for hearing before the D.B.


(Mian Muhammad)
Member(E)

26.03.2021

Counsel for the appellant and Mr. Noor Zaman, DDA alongwith Suleman Assistant for the respondents present.

The Worthy Chairman is on leave, therefore, case is adjourned to 10.05.2021 for hearing before the D.B.


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

10.05.2021

Due to demise of the Worthy Chairman, the Tribunal is non-functional, therefore, case is adjourned to 30.08.2021 for the same as before.


Reader

30.08.2021

Due to summer vacations, the case is adjourned to 15.11.2021 for the same as before.


READER

15.01.2021

Appellant is present in person. Mr. Kabirullah Khattak, Additional Advocate General and Mr. Salman, Assistant, for the respondents, are also present.

Written reply on behalf of respondents not submitted. Representative of the department is seeking further time for submission of written reply/comments. Adjourned to 02.02.2021 on which date file to come up for written reply/comments before S.B. In the meanwhile, the operation of impugned notification shall remain suspended if not acted upon, already.


(MUHAMMAD JAMAL KHAN)
MEMBER (JUDICIAL)

02.02.2021

Appellant in person and Addl. AG alongwith Salman Assistant for the respondents present.

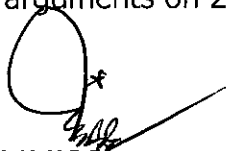
Representative of respondents has furnished reply/comments. Placed on record. The matter is assigned to D.B for arguments on 19.02.2021. The appellant may furnish rejoinder, within 10 days, if so advised. The restraint order dated 14.12.2020 shall remain operative till next date of hearing.


Chairman

19.02.2021

Appellant with counsel and Syed Asif Masood, DDA alongwith Suleman Assistant for the respondents present.

The appellant has submitted rejoinder to the joint parawise comments on behalf of respondents No. 1, 2 & 3. Placed on file. To come up for arguments on 26.02.2021.


(Mian Muhammad)
Member(E)


Chairman

Appeal No. 15917/2020
Adil Zaman is present

24.12.2020


Counsel for the appellant present.

Learned counsel referred to Annexures B&C with the memorandum of appeal and contended that the impugned transfer of appellant was politically motivated. The former annexure is a certificate from Government Post-Graduate College of Commerce No. 2 Mardan while the latter is a request from MPA PK-51 to the Chief Minister Khyber Pakhtunkhwa. Both the instruments suggest that the said MPA was interested and directly involved in the impugned transfer.

Prima-facie, the stance of learned counsel is reasonable. Instant appeal is, therefore, admitted to regular hearing subject to all just exceptions. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 15.01.2021 before S.B.

Alongwith the appeal, there is an application for suspending the operation of impugned notification. Notice of the application be also given to the respondents for the date fixed. In the meanwhile, the operation of impugned notification shall remain suspended if not acted upon, already.

Appellant Deposited
Security & Process Fee




Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 15917 /2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	22/12/2020	<p>The appeal of Mr. Adil Zaman presented today by Mr. Muhammad Asif Yousafzai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>24/12/2020</u>.</p> <p style="text-align: right;"> CHAIRMAN</p> <p style="text-align: right; font-size: small;">Stamp: 2020/12/24 10:30 AM</p>
2-		

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 15917 /2020

Adil Zaman

V/S

Higher Education Deptt:

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6.	Copy of notification	D	10
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8.	Copy of PUC	F	12
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APPELLANT

THROUGH:-

M. Asif Yousafzad
(M. ASIF YOUSAFZAD)
ADVOCATE SUPREME COURT

Taimur Ali Khan
TAIMUR ALI KHAN
(ADVOCATE HIGH COURT.)

(S. NOMAN ALI BUKHARI)
(ADVOCATE HIGH COURT.)

&

(SHAHKAR KHAN YOUSAFZAD)
ADVOCATE

Room No. Fr-8, 4th Floor,
Bilour Plaza, Peshawar Cantt:
Contact No. 03339103240

①

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____ /2020

Adil Zaman, Lecturer in Commerce,
Govt: Commerce of College-II, Mardan.

(APPELLANT)

VERSUS

1. The Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. The Secretary, Higher Education Department, Khyber Pakhtunkhwa, Peshawar.
3. The Director General Commerce Education & Management Science, Khyber Pakhtunkhwa Peshawar.

**(RESPONDENT
S)**

APPEAL UNDER SECTION 4 OF THE KPK SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 03.12.2020 WHEREBY THE APPELLANT HAS TRANSFERRED FROM GOVERNMENT COLLEGE OF COMMERCE NO.2 MARDAN TO GOVERNMENT COLLEGE OF MANAGEMENT SCIENCE D.I KHAN AGAINST THE VACANT POST AND AGAINST THE ORDER DATED 18.12.2020, WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED FOR NO GOOD GROUNDS.

PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 03.12.2020 AND 18.12.2020 MAY BE KINDLY SET ASIDE PASSED IN THE VIOLATION OF POSTING/TRANSFER INSTRUCTION AND SUPERIOR COURT JUDGMENTS. THE RESPONDENT DEPTT: MAY FURTHER PLEASE BE DIRECTED NOT TO TRANSFER THE APPELLANT IN VIOLATION OF POSTING/TRANSFER. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

**RESPECTFULLY SHEWETH:
FACTS:**

1. That the appellant belong Mardan and was appointed as Lecturer in Commerce (BPS-17) after proper recommendation by the KP Public Service Commission and was posted in Government College of Commerce No.2 Mardan vide notification dated 17.10.2018. **(Copy of notification dated 17.10.2018 is attached as Annexure-A)**
2. That the appellant after posting in Government College of Commerce No.2 Mardan is performing his duty with great devotion and honesty whatsoever assign to him and no complaint has been filed by his superiors against him regarding his performance.
3. The family of the appellant belong to Political Party ANP due to which the concerned MPA (Haji Amir Farzanad Khan belong to ruling party i.e PTI) visited to the concerned college and told the principal to transfer the appellant from Government College of Commerce No.2 Mardan to some other far station however, he told the concerned MPA that it is not his prerogative to transfer the appellant and the same may be done by the Chief Minister KP or Secretary which is evident from the certificate of then Principal of Government College of Commerce No.2 Mardan. **(Copy of Certificate is attached as Annexure-B)**
4. That the concerned MPA (Haji Amir Farzanad Khan) also wrote a letter on 24.11.2020 to Chief Minister Khyber Pakhtunkhwa in which he manipulated and misconceived the Chief Minister Khyber Pakhtunkhwa and requested him to transfer the appellant from Government College of Commerce No.2 Mardan to Government College of Commerce D.I Khan. **(Copy of letter dated 24.11.2020 is attached as Annexure-C)**
5. That on the basis of that political based letter of the concerned MPA, the appellant was transferred from Government College of Commerce No.2 Mardan to Government College of Management Science D.I vide notification dated 03.12.2020. **(Copy of notification dated 03.12.2020 is attached as Annexure-D)**
6. That the appellant field departmental appeal against the impugned transfer notification dated 03.12.2020 on dated 07.12.2020, on which PUC was prepared in which on its heading it was clearly mentioned that transfer on political grounds and in that PUC it was also mentioned that the appellant has transferred to Government College of Management Science D.I Khan vide para-4/N Chief Minister directive. The departmental appeal was rejected on 18.12.2020 for no ground. **(Copy of departmental appeal, PUC and rejection order are attached as Annexure-E,F&G)**

7. That the appellant has no other remedy but come this august Tribunal on the basis of following grounds amongst others.

GROUND:

- A) That the impugned orders dated 03.12.2020 and 18.12.2020 are against the law, facts, norms of justice, violation of posting transfer policy and superior Court Judgment, therefore not tenable and liable to be set aside.
- B) The transfer of the appellant is in total violation of Govt: posting transfer policy. Thus the impugned order is liable to be set-aside on this score alone. (Copies of policy is attached as Annexure- H)
- C) That the impugned transfer notification was passed on political base which is evident from the certificate of Principal of the concerned College, letter of MPA and PUC and such action of the department was discouraged by the Apex in plethora of judgments and as such the impugned transfer order is liable to be set aside.
- D) That the impugned transfer notification is neither public interest nor passed in exigencies but it was passed on political base, which is against the Superior Courts judgment.
- E) That according to posting/transfer policy, posting/transfer orders of all the officers up to BS-19 except the Heads of the Attached Departments irrespective of the grade will be notified by the concerned Administrative Departments with the prior approval of the Competent Authority obtained on the Summary, but in the case of the appellant, no prior approval of Summary for transfer was obtained, which is violation of posting/transfer policy.
- F) That the appellant seeks permission to advance others' grounds and proofs at the time of hearing.

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

4

Adil Zaman
APPELLANT

Adil Zaman

THROUGH:

M. Asif Yousafzai
(M. ASIF YOUSAFZAI)
ADVOCATE SUPREME COURT

Taimur Ali Khan
TAIMUR ALI KHAN
(ADVOCATE HIGH COURT.

(S. NOMAN ALI BUKHARI)
(ADVOCATE HIGH COURT.

&

(SHAHKAR KHAN YOUSAFZAI)
ADVOCATE

5

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. _____/2020

Adil Zaman

V/S

Higher Education Deptt:

**APPLICATION FOR SUSPENDING THE
OPERATION OF NOTIFICATION DATED
03.12.2020 TILL THE DISPOSAL OF MAIN
APPEAL.**

RESPECTFULLY SHEWETH.

1. That the appellatant has filed an appeal along with this application in which no date is fixed so for.
2. That the impugned transfer notification was passed on political base which is evident from the certificate of Principal of the concerned College, letter of MPA and PUC and such action of the department was discouraged by the Apex in plethora of judgments and as such the impugned transfer order is liable to be set aside.
3. That the grounds of main appeal may also be considered as integral part of this application.
4. That the appellatant has a good prima facie case and all the three ingredients are in favour of the appellatant.

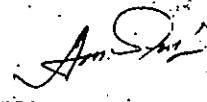
It is therefore most humbly prayed that the operation of the notification dated 03.12.2020 may be suspended till the decision of main appeal.

①


APPELLANT

Adil Zaman

THROUGH:


(M. ASIF YOUSAFZAD)
ADVOCATE SUPREME COURT


TAIMUR ALI KHAN
(ADVOCATE HIGH COURT.

(S. NOMAN ALI BUKHARI)
(ADVOCATE HIGH COURT.

&

(SHAHKAR KHAN YOUSAFZAD)
ADVOCATE

AFFIDAVIT

It is solemnly affirm that the contents of this application are true and correct and nothing has been concealed from this Honorable Tribunal.



DEPONENT

**GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES &
LIBRARIES DEPARTMENT**

Dated Peshawar, 17th October 2018.

A 7
P.S.O

NOTIFICATION

No. SO: CE&MS)HED/1-35/283 (J-90) 12966-79
Consequent upon the recommendations of Khyber Pakhtunkhwa Public Service Commission, the Competent Authority is pleased to appoint the following recommendees as Lecturers in Commerce BPS-17 in Govt: Colleges of Commerce/ Management Sciences, Khyber Pakhtunkhwa with immediate effect against vacant posts in the Colleges as noted against each subject to the terms and conditions mentioned hereunder:-

S.#	Name, Father's Name & Address	Posted at
1	Mr. Adil Zaman S/O Feroz Khan, <u>Postal Address:</u> District & Tehsil Mardan P/O Shah Haz Garhi Village Bala Garhi (Baracham).	Govt: College of Commerce No.02. Mardan against the vacant post.
2	Mr. Najeeb Ullah S/O Haider Khan, <u>Postal Address:</u> Village & P/O Khuley (Dosehar) District & Tehsil Charsadda.	Govt: College of Management Sciences, Mardan against the vacant post.
3	Mr. Abrar Ahmad Bhatti S/O Iftikhar Ahmad Bhatti, <u>Postal Address:</u> House No.431 Faisal Colony, G.T Road Peshawar.	Govt: College of Management Sciences, Peshawar against the vacant post.
4	Mr. Israr Ahmad S/O Syed Muhammad Amin Shah <u>Postal Address:</u> Mohallah Kaka Khel Village & P/O Gilari Usmani Khel, Dargai Malakand.	Govt: College of Management Sciences, Thana against the vacant post.
5	Mr. Noman Khan S/O Khan Badshah, <u>Postal Address:</u> House No. 245/B Mohallah Rabnawaz Wakeel Bannu.	Govt: College of Commerce No.2. Mardan against the vacant post.
6	Mr. Mohay Ud Din Shah S/O Gul Tajeem Shah <u>Postal Address:</u> Village Mandgoori Patal Shah P/O Chakdadan Tehsil & District Bannu.	Govt: College of Commerce No.02. Bannu against the vacant post.
7	Mr. Yousaf Abbasi S/O Jahangir Abbasi <u>Postal Address:</u> New Abbasi House No.586 Iqbal Road Supply Abbottabad.	Govt: College of Management Sciences, Abbottabad against the vacant post.
8	Mr. Usman Ghani S/O Khyal Zamir <u>Postal Address:</u> Ghazi Ghary, Ashnagher, Bara Road, Sarband, Peshawar.	Govt: College of Management Sciences, Jamrud against the vacant post.
9	Mr. Taqi Ullah Khan S/O Rehmat Ullah <u>Postal Address:</u> House No. R-511/29 Mohallah Jafarzai, Gulachi District D.I Khan.	Govt: College of Commerce No.02, D.I Khan against the vacant post.
10	Syed Hidayat Ullah Shah S/O Syed Aftab Ud Din <u>Postal Address:</u> Village Hisara Navey Wadana Mandani Tehsil Tangi District Charsadda.	Govt: College of Management Sciences, Charsadda against the vacant post.
11	Mr. Zahir Rahman S/O Sher Afazal Khan <u>Postal Address:</u> Village Gatkoto, P/O Thana, Tehsil Batkhela District Malakand.	Govt: College of Management Sciences, Thana against the vacant post.
12	Mr. Basit Rehman S/O Abdul Wahid <u>Postal Address:</u> P/O Garden Colony House No. WD-97/2, Kohat.	Govt: College of Management Sciences, Kohat against the vacant post.
13	Mr. Tamur Ashiq S/O Ashiq Hussain <u>Postal Address:</u> House No.04, Mohallah Thanidar, Chamba Pir Road, Nothia Jadeed, Peshawar.	Govt: College of Management Sciences, Swabi against the vacant post.

Govt; Post Graduate College of Commerce

No:2 Mardan

Principal Office No: 0937-906075

Ref,No: _____

Date: _____

Sir,

I Prof. Khalid Khan Khattak solemnly declare that Amer Farzand khan MPA (PK51) had visited my office, as I was a principal of the college) and tried to manapulate me to transfer Adil Zaman, Lecturer in Commerce of GCMS-II, Mardan to some other far station. I told him at that time that transfer is not in my power and can't do that, and if it were in my power, i would not have transferred him without any report or laxity in his official duties. In addition, I have told him that if you are too eager to transfer Adil Zaman from this college, the same may be done by the honourable Chief Minister, KP or Secretary, Higher Education Department, KP.

Furthermore, if the same needs to be testified in front of you, or any other forum, I, Prof Khalid Khan Khattak, would neither hesitate in testify it nor keep the truth hidden.

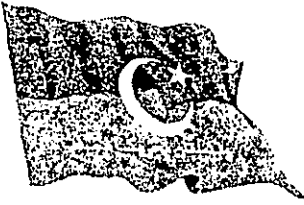
PRINCIPAL
Govt. College of Commerce

Mardan Prof. Khalid Khan Khattak

Principal

Govt. College of Management
sciences No.2 Mardan

PRINCIPAL
Govt. College of Commerce
Mardan



Haji Amir Farzand Khan

Member Provincial Assembly

Khyber Pakhtunkhwa PK-51

Garhi Kapoora District Mardan

Cell: 0300-5855591

Ref No. PK-51

Date: 24/11/20

To

The Honorable Chief Minister,

Khyber Pakhtunkhwa.

Subject: Transfer of Adil Zaman

Sir,

Adil Zaman is a permanent resident of PK51. He along with his whole family has fully cooperated and left no stone unturned during my election campaign in PK51. Recently, due to some unfavorable circumstances and enmity because of my help in election campaign he is threatened and his life is at risk. It is requested to your worthy self to transfer Adil Zaman from Govt.college of commerce No.2 Mardan to Govt.college of commerce D I KHAN, so that his precious life may be saved and such unfavorable circumstances may be avoided.

Your,s faithfully

Farzand

Signature



D#10

**GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES AND
LIBRARIES DEPARTMENT**

DATED PESHAWAR THE 03/12/2020

NOTIFICATION


No.SO(CE&MS)HED/1-2/: 835(-2) The competent authority is pleased to order the transfer of Mr. Adil Zaman, Lecturer (Commerce) BPS-17, Government College of Commerce No.02 Mardan to Government College of Management Sciences, D.I Khan against the vacant post with immediate effect.

**SECRETARY TO
GOVT: OF KHYBER PAKHTUNKHWA,
HIGHER EDUCATION, DEPARTMENT**

Endst: No. & date even:

Copy of the above is forwarded to the:-

- 1- Director General, Commerce Education and Management Sciences, Chamkani More, near Govt: Polytechnic Institute, Sardar Ghari Peshawar.
- 2- District Accounts Officer Mardan and D.I Khan.
- 3- The Principal Government College of Commerce No.02, Mardan.
- 4- The Principal Government College of Management Sciences, D.I Khan.
- 5- PS to Secretary HED.
- ~~6~~ Officer concerned.


(IBAD ULLAH)
SECTION OFFICER (COMMERCE)

To

Dated: 07-12-2020.

The Secretary,
Higher Education Department,
Khyber Pakhtunkhwa.

E (11)

THOUGH PROPER CHANNEL

Subject: Transfer On Political Grounds

Respected Sir,

With profound veneration it is submitted to your benign self that I am working as Lecturer in Commerce (BPS-17) in my own pay and scale. I belong to Mardan (Zone 2), and one kilometer (1 KM) away from my duty station (Government Commerce College-II, Mardan). In addition, I took a distinctive position in my batch and became the topper of KPPSC. Since my induction as a lecturer, I have performed my duties with full zeal and zest, and have not left any stone unturned for the betterment and progress of my department and country. Besides taking classes, I have also performed duty as Warden of the college hostel, Estate and Purchase Officer of my college and Sports Incharge.

As a responsible and patriotic citizen of my country, I do abide by all the laws of the land and discipline of my department. Still, I am transferred to D I Khan Commerce College Zone-4 though lecturer positions are vacant in Zone-2 at different stations. Since my career in this department, there are neither negative reports and inquiries nor any show cause notice issued against me. Likewise, neither the Principal of GCC-II, Mardan has desired my transfer nor the Principal of D I Khan Commerce College has demanded it. However, my transfer is purely on political basis which has not created and unrest in me only but also among the whole commerce community.

It is, therefore, requested that my plea may kindly be considered on the subject cited above and obliged.

Thanking you always for your time and consideration.

Sincerely Yours,

Adil Zaman, Lecturer in Commerce
Govt. Commerce College-II, Mardan.

Copy Forwarded to:

1. The Director General, Commerce Education and Management Sciences, Rano Ghari, Peshawar, Khyber Pakhtunkhwa.
2. PS to Chief Secretary Khyber Pakhtunkhwa

Better copy page 12 A

Subject:- **TRANSFER ON POLITICAL GROUNDS.**

PUC is an application submitted by Mr. Adil Zaman, Lecturer in Commerce (BPS-17) Government College of Commerce No. 02 Mardan wherein he has requested for transfer to nearest station.

It is pertinent to mention here that the office concerned has recently transferred to Government College of Management Sciences, D.I:Khan vide Para-4/N Chief Minister directive approved.

Submitted for further necessary action.

SECTION OFFICER (CE&MS)

DS (COLLEGES).

F 12

Subject: - TRANSFER ON POLITICAL GROUNDS.

7. PUC is an application submitted by Mr. Adil Zaman, Lecturer in Commerce (BPS-17) Government College of Commerce No.02 Mardan wherein he has requested for transfer to nearest station.

8. It is pertinent to mention here that the officer concerned has recently transferred to Government College of ~~College~~ of Management Sciences, D.I Khan vide para-4/N Chief Minister directive approved.

9. Submitted for further necessary action.

Ad 09/12/2020
SECTION OFFICER (CE&MS)

10. DS (COLLEGES) Put up an relevant Rule, not in Kacha Cover. !!

11. SO (CMS) Discussed

11/10/20

12. File is submitted for permit/Approval plr.

ACC (away)

SS/IF

11/10/20

may be filed.

10/12

Secretary FLED

S/S

ASCCS

11/12/2020

11/12



GOVERNMENT OF KHYBER PAKHTUNKHWA
HIGHER EDUCATION, ARCHIVES AND
LIBRARIES DEPARTMENT

DATED PESHAWAR THE 18/12/2020

9/13

No.SO(CE&MS)HED/1-2/: 973 The Competent authority has filed the appeal of
Mr. Adil Zaman, Lecturer (Commerce) BPS-17, Government college of Commerce
No.02 Mardan .

Endst: No. & date even:

Copy of the above is forwarded to the:-

1. Director General Commerce Education and Management sciences, Chamkani
More, near Govt; Polytechnic Institute, Sardar Ghari Peshawar.
2. PS to Secretary HED.
3. Office Concerned.

(IBAD ULLAH)
SECTION OFFICER (COMMERCE)



H/14

(B)

(B)

GOVERNMENT OF NWFP
ESTABLISHMENT & ADMINISTRATION
DEPARTMENT
(Regulation Wing)

POSTING / TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT

- i) All the posting/transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants.
- ii) All Government servants are prohibited to exert political, Administrative or any other pressures upon the posting/transfer authorities for seeking posting/transfers of their choice and against the public interest.
- iii) All contract Government employees appointed against specific posts, can not be posted against any other post.
- iv) The normal tenure of posting shall be three years subject to the condition that for the officers/officials posted in unattractive areas the tenure shall be two years and for the hard areas the tenure shall be one year. The unattractive and hard areas will be notified by the Government.
- v) While making postings/transfers from settled areas to FATA and vice-versa, specific approval of Governor, NWFP needs to be obtained.
- vi) While making postings/transfers of officers/officials up to BS-17, from settled areas to FATA and vice-versa approval of the Chief Secretary, NWFP needs to be obtained. Whereas, in case of posting/transfer of officers in BS-18 and above, from settled areas to FATA and vice-versa, specific approval of the Governor NWFP shall be obtained.
- vii(a) All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for atleast eighteen months in each grade. This should start from senior most scales/grades downwards in each scale/grade of each cadre.
- vii) Officers may be posted on executive/administrative posts in the Districts of their domicile except District Coordination Officers (D.C.Os) and DPOs/Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where the Police Station (Thaana) of his area/residence is situated.

Para-I(v) regarding months of March and July for posting/transfer and authorities for relaxation of ban deleted vide letter No. SOR-VI (E&AD) I-4/2008/Vol-VI, dated 3-6-2008. Consequently authorities competent under the NWFP Government Rules of Business, 1985, District Government Rules of Business, 2001, Posting/Transfer Policy and other rules for the time being in force, allowed to make posting/transfer subject to observance of the policy and rules. Added vide Urdu circular letter No. SOR-VI (E&AD) I-4/2003, dated 21-09-2004.

ATTESTED

- viii) No posting/transfers of the officers/officials on detailment basis shall be made.
- ix) Regarding the posting of husband/wife, both in Provincial services, efforts where possible would be made to post such persons at one station subject to the public interest.
- x) All the posting/transferring authorities may facilitate the posting/transfer of the unmarried female government Servants at the station of the residence of their parents.
- (xi) Officers/officials except DCOs and DPOs/SPs who are due to retire within one year may be posted on their option on posts in the Districts of their domicile and be allowed to serve there till the retirement.
DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales;
- xii) In terms of Rule-17(1) and (2) read with Schedule-III of the NWFP Government Rules of Business 1985, transfer of officers shown in column 1 of the following table shall be made by the authorities shown against each officer in column 2 thereof:

Outside the Secretariat		
1.	Officers of the all Pakistan Unified Group i.e. DMG, PSP including Provincial Police Officers in BPS-18 and above.	Chief Secretary in consultation with Establishment Department and Department concerned with the approval of the Chief Minister.
2.	Other officers in BPS-17 and above to be posted against scheduled posts, or posts normally held by the APUG, PCS(EG) and PCS(SG).	-do-
3.	Heads of Attached Departments and other Officers in B-19 & above in all the Departments.	-do-
In the Secretariat		
1.	Secretaries	Chief Secretary with the approval of the Chief Minister.
2.	Other Officers of and above the rank of Section Officers: a) Within the Same Department b) Within the Secretariat from one Department to another.	Secretary of the Department concerned. Chief secretary/Secretary Establishment
3.	Officials up to the rank of Superintendent:	

Added vide Urdu circular letter No: SOR-VI (E&AD)/1-4/2005; dated 9-9-2005.

ATTACHED

a) Within the same Department	Secretary of the Department concerned.
b) To and from an Attached Department	Secretary of the Dept in consultation with Head of Attached Department concerned.
c) Within the Secretariat from one Department to another	Secretary (Establishment)

xiii) While considering posting/transfer proposals all the concerned authorities shall keep in mind the following:

- a) To ensure the posting of proper persons on proper posts, the Performance Evaluation Report/annual confidential reports, past and present record of service, performance on post held presently and in the past and general reputation with focus on the integrity of the concerned officers/officials be considered.
- b) Tenure on present post shall also be taken into consideration and the posting/transfers shall be in the best public interest.

xiv) Government servants including District Govt. employees feeling aggrieved due to the orders of posting/transfer authorities may seek remedy from the next higher authority / the appointing authority as the case may be through an appeal to be submitted within seven days of the receipt of such orders. Such appeal shall be disposed of within fifteen days. The option of appeal against posting/ transfer orders could be exercised only in the following cases.

- i) Pre-mature posing/transfer or posting transfer in violation of the provisions of this policy.
- ii) Serious and grave personal (humanitarian) grounds.

2. To streamline the postings/transfers in the District Government and to remove any irritant/confusions in this regard the provision of Rule 25 of the North West Frontier Province District Government Rules of Business 2001 read with schedule - IV thereof is referred. As per schedule-IV the posting/transferring authorities for the officers/officials shown against each are as under:-

S. No.	Officers	Authority
1.	Posting of District Coordination Officer and Executive District Officer in a District.	Provincial Government.
2.	Posting of District Police Officer.	Provincial Government
3.	Other Officers in BPS-17 and above posted in the District.	Provincial Government
4.	Official in BPS-16 and below	Executive District Officer in consultation with District Coordination Officer.

ATTESTED

17
1

3. As per Rule 25(2) of the Rules mentioned above the District Coordination Department shall consult the Government if it is proposed to:

- a) Transfer the holder of a tenure post before the completion of his tenure or extend the period of his tenure.
- b) Require an officer to hold charge of more than one post for a period exceeding two months.

4. I am further directed to request that the above noted policy may be strictly observed /implemented.

.....

All concerned are requested to ensure that tenures of the concerned officers/officials are invariably mentioned in summaries submitted to the Competent Authorities for Posting/Transfer.
 (Authority: Letter No: SOR-VI/E&AD/1-4/2003 dated 24-6-2003).

.....

It has been decided by the Provincial Government that posting/transfer orders of all the officers up to BS-19 except Heads of Attached Departments irrespective of grades will be notified by the concerned Administrative Departments with prior approval of the Competent Authority obtained on the Summary. The Notifications/orders should be issued as per specimen given below for guidance.

All posting/transfer orders of BS-20 and above and Heads of Attached Departments (HAD) shall be issued by the Establishment Department and the Administrative Departments shall send approved Summaries to E&A Department for issuance of Notifications.

SPECIMEN NOTIFICATION.

GOVERNMENT OF NWFP
NAME OF ADMINISTRATIVE
DEPARTMENT

Dated Peshawar, _____

NOTIFICATION

NO. _____ The Competent Authority is pleased to order the transfer of Mr. _____ Department and to post him as _____ in the interest of public service, with immediate effect

CHIEF SECRETARY
GOVERNMENT OF NWFP

Endst. No. and date even.

Copy forwarded

- 1.
- 2.
- 3.
- 4.

ATTACHED

(NAME)
SECTION OFFICER
Administrative Department

(Authority: Letter No: SO (E&AD) 9-19/2006 dated: 22-12-2006)

The competent authority has been pleased to direct that Para 1(v) of the Posting/Transfer Policy contained in this Department Letter No: SOR-I (E&AD) 1-1/85 Vol-II, dated 15-2-2003 shall stand deleted, with immediate effect, consequently allowing the authorities, competent under the NWFP Government Rules of Business, 1985 and the District Government Rules of Business, 2001 or any other rules for the time being in force, to make posting/transfers of Government servants, any time during the year, in genuinely deserving and necessary cases, in public interest, subject to strict observance of all other provisions of posting/transfer policy contained and notified vide circular letter under reference. Hence there will be no ban on posting/transfer of Government Servants in any part of the year while carrying out postings/transfers of Government Servants.

The authorities concerned will ensure that no injustice whatsoever is caused to any civil servant, public work is not suffered and service delivery is improved.

I am therefore directed to request that the provisions of posting/transfer policy, as amended to the extent above, may kindly be followed in letter and spirit in future so as to keep good governance standard in this regard.

(Authority: Letter No: SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-6-2008)

.....
According to the policy of the provincial Government, maximum tenure on a post is three years. Contrary to the Policy, Store Keepers, Cashiers, Accountants and other ministerial staff remains posted in their particular field for long time, which may result in misuse of this position, due to which not only public exchequer may sustain loss but general public also suffers. The Provincial Government has taken serious notice of this situation & decided that all Administrative Secretaries and DCOs may submit a certificate within one month to the effect that above mentioned officials, having completed three years on their posts, have been adjusted on posts other than those they held previously.

(Authority: Urdu circular No: SOR-VI (E&AD) 105 dated 28th Oct, 2005.)

.....
The Chief Minister NWFP has directed that:

- i) Submission of summary would not be required in case of mutual transfer.
- ii) Posting/transfer shall be made according to the policy.
- iii) Government Servants shall avoid direct submission of applications to the Chief Minister.
- iv) In genuinely deserving case, they should approach the Administrative Secretaries who could process the case according to policy.

- v) In case of direct submission of application to the Chief Minister Secretariat for Posting/Transfer, the concerned govt servants shall be proceeded against under the prevalent rules and regulations.

(Authority: Urdu circular No: SOR-VI/E&AD/1-4/2003, dated 8-6-2004, Urdu Letter No: SOR-VI/E&AD/Misc: 7/2005, dated 3-1-2005.)

- It has been decided with the approval of the competent authority that:
- i) Mutual transfer would be allowed if both the concerned employees agree, except the Government Servants holding Administrative posts;
 - ii) NWFP Government Rules of Business 1985 shall be observed while issuing posting/transfer orders.

(Authority: Urdu circular letter No: SOR (E&AD)/1-4/2005, dated 9-9-2005)

The competent authority has decided that in order to maintain discipline, enhance performance of the departments and ensure optimum service delivery to the masses, the approved /prevalent policy of the posting/transfer shall be strictly followed. Government Servants violating the policy and the NWFP Govt Servants (Conduct) Rules 1987 shall be proceeded against under the NWFP Removal from Service (Special Powers) Ordinance 2000. As required under the NWFP Govt Rules of Business 1985, the Administrative Secretaries shall ensure compliance with the policy and defaulting offices/officials be taken to task & entries to this effect shall be made in their PERs/ACRs. In case subordinate officers are working on sites or proceeding for the purpose of inspection, they shall submit inspection Report to their Administrative Secretaries. Administrative Secretaries shall ensure submission of such reports.

(Authority: Urdu circular No: SOR-VI (E&AD)/1-4/06, dated 29-6-2007)

PLACEMENT POLICY

In order to utilize the expertise of the officers who have received foreign training in various fields, the provincial Government has decided to adopt the Placement Policy, approved by the Prime Minister of Pakistan, and make it a part of its Posting/Transfer Policy. Placement Policy as follows:

- i) All placements would be made on the basis of merit and keeping in view the needs of the organization.
- ii) The first priority in placement must go to the parent organization of the participant from where the individual had applied. This will be in consonance with the concept of establishing the "Need" for the department and fulfilling the need through "capacity building for the organization.
- iii) In order to follow the "bottom-up approach" for Devolution, the priority within departments must go to the Districts, the Provinces and then the Federal Government.
- iv) The second priority in placement should go to up-grading the existing training Institution within the country. The knowledge gained by the

Placement Policy has been made part of the posting/transfer policy vide Urdu Circular No: SOR-VI (E&AD)/1-4/06, d 2-2-2007

20

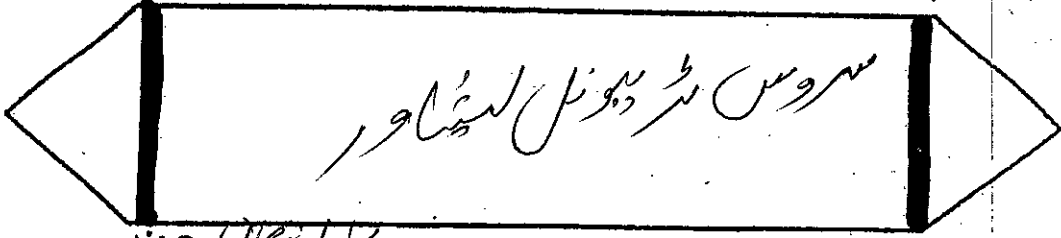
officers, will be of immense value to bring about a qualitative change in the training institutions. The following proposals are made in this regard:

- a) Permanent posting of an officer to the training institutions for 2-3 years;
- b) Temporary attachment with the training institutions for 3 to 6 months for some research project on helping in developing case studies;
- c) Earmarked as a visiting faculty member for specific subject.
- v) Individuals posted to their parent organizations will also organize training for their subordinates within the department, in order to transfer the knowledge and bring about a qualitative change internally;
- vi) The Normal tenure of posting as already provided in the policy would be ensured;
- vii) No participant should be allowed to be posted on deputation to multinational donor agencies for at least 5 years;
- viii) No participant will decline/represent against his/her posting.

ATTACHED

ATTACHED

بعدالت



عادل رحمان 22 منجانب

عادل رحمان کے نام شکایتی نوٹس

موزخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آنکے

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی دکن کاروائی متعلقہ
آن مقام لہذا اور کیلئے محمد عرفان مسعودی اور محمد عرفان

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

دکن صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور صولی چیک دروپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری کی طرف یا اپیل کی برآمدگی اور منسوخ

نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور

کے کل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار

ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ

پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ ہر جاتہ التوائے مقدمہ کے سبب سے ہوگا۔

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

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

Accepted
Attested
Anwar

الرقوم _____ ماہ _____ 20

_____ واد العب _____

کے لئے منظور ہے۔

بمقام

“B”

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.
JUDICIAL COMPLEX (OLD), KHYBER ROAD,
PESHAWAR. 5/2

No.

Appeal No. 15917 of 20 20
Adil Zaman Appellant/Petitioner

Versus
The Chief Secy KPK Peshawar Respondent

Respondent No. 2

Notice to:

The Secretary Higher Education
Deptt: KPK Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal on 15/1/2021 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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

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

Given under my hand and the seal of this Court, at Peshawar this 5/1

Day of 2 Jan 20 21

Dzi Ayaz

7/1/20



Registrar,
 Khyber Pakhtunkhwa Service Tribunal,
 Peshawar.

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

"B"

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

513

No.

Appeal No. 15917 of 20 20

Adil Zaman

Appellant/Petitioner

Versus

The Chief Secy KPK Peshawar

Respondent

Respondent No. 3

Notice to:

The Director General Commerce
Education & Management Science,
KPK Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal on 15/1/2021 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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office Notice No. dated

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

Day of Jan 20 21

Decided
2021
10 HED
7/1/20



Registrar

Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.
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"B"

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

No.

Appeal No. 15917 of 20 20

Adil zaman Appellant/Petitioner

Versus

The Chief Secy KPK Peshawar Respondent

Respondent No. 1

Notice to:

The Chief Secretary KPK Peshawar

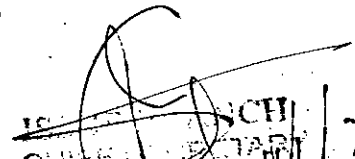
WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal on 15/1/2021 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

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

Day of Jan 20 21


CHIEF REGISTRAR
Court of Khyber Pakhtunkhwa
Peshawar
15/1/21


Registrar,
Khyber Pakhtunkhwa Service Tribunal,
Peshawar.

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

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR.

Service Appeal No. 15917/2020

Mr. Adil Zaman Lecturer in Commerce,
Govt: College of Commerce No. II , Mardan

..... *Appellant.*

Versus

Government of Khyber Pakhtunkhwa through Chief Secretary and others

..... *Respondents.*

JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 01 TO 03.

I N D E X

Sr. No.	Description of Documents	Annexure	Page No.
1)	Joint Parawise Comments along with affidavit		1-3


DEPONENT.

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

SERVICE APPEAL NO. 15917/2020

Mr. Adil Zaman Lecturer in Commerce,
Govt: College of Commerce No.II, Mardan

..... *Appellant.*

VERSUS

1. The Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. The Secretary, Higher Education Department, Khyber Pakhtunkhwa, Peshawar.
3. The Director General, Commerce Education and Management Sciences, Khyber Pakhtunkhwa, Peshawar.

..... *Respondents.*

JOINT PARA-WISE COMMENTS ON BEHALF OF RESPONDENT NO. 1 To 3.

Respectfully Sheweth: -

Preliminary Objections: -

- I. That the Appellant does not fall within the definition of an aggrieved person and has no locus standi to file the appeal in hand.
- II. That the Appellant has got no cause of action to file the instant case.
- III. That the Appellant is estopped by his own conduct to file the instant appeal.
- IV. That filing of this appeal is futile exercise and wastage of precious time of this Honorable Service Tribunal, liable to be dismissed forthwith.
- V. That transfer/posting is prerogative of the Government and as a routine business is carried out in best public interest.
- VI. That the instant appeal is not maintainable.
- VII. That the appeal in hand is barred by limitation.
- VIII. The instant appeal is bad for non joinder and misjoinder of necessary parties.

On Facts: -

1. Correct.
2. Pertains to record.

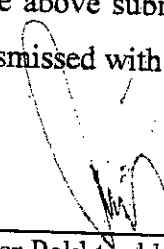
3. Mr. Khalid Khan Khattak, the then principal Government Commerce College No. II Mardan, presently working as principal Government Commerce College No. II Peshawar, will be in a better position to explain his stance as the para relates to him.
4. The concerned MPA namely Mr. Haji Amir Farzand Khan who is not party in the instant appeal will be in better position to explain about credibility of the alleged letter written by him.
5. Incorrect Transfer/posting is prerogative of the Government and as a routine business is carried out in best public interest.
6. Incorrect. It is well known fact that when a letter/application is processed/put-up on note sheet heading/title/subject of the letter/application is reproduced, as it is on the note sheet. As subject title of appellant's application was "transfer on political grounds" so was the subject of impugned PUC.
7. Incorrect. As explained in the preceding paras.

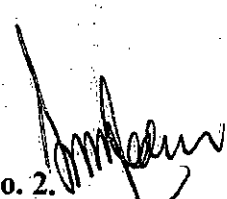
On Grounds: -


- A. Incorrect. The impugned Orders are according to law and rules.
- B. Transfer/posting is prerogative of the Government and as a routine business is carried out in best public interest.
- C. Incorrect on grounds as explained in para-5 and 6 above.
- D. As explained in the preceding paras.
- E. Incorrect. Prior approval of the competent authority was obtained in the instant case.
- F. The Respondents also seek the permission of this Hon'ble Tribunal to advance additional arguments and raise additional grounds at the time of arguments.

Prayer: -

In view of the above submissions, it is humbly prayed that the Service Appeal in hand may graciously be dismissed with costs.

Respondent No. 1. 
Government of Khyber Pakhtunkhwa,
Through its Chief Secretary, Civil Secretariat,
Peshawar.

Respondent No. 2. 
Secretary Higher Education,
Government of Khyber Pakhtunkhwa
Peshawar

Respondent No. 3. 
Director General, Commerce Education
& Management Sciences, Peshawar

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No. 15917/2020

Mr. Adil Zaman Lecturer in Commerce,
Govt. College of Commerce No. II , Mardan

..... *Appellant.*

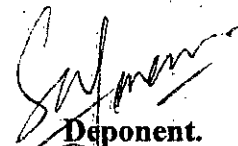
Versus

Government of Khyber Pakhtunkhwa through Chief Secretary and others

..... *Respondents.*

AFFIDAVIT

I, Salman Khan, Assistant (Litigation Section), Directorate General of Commerce Education & Management Sciences, Peshawar, do hereby declare and affirm, that the contents of the Para-wise Comments are correct to the best of my knowledge and belief and that nothing has been concealed therein from this Hon'ble Tribunal:



Deponent.

N.I.C# 16101-4827653-3

Cell # 0345-3098173

BEFORE THE KKP, SERVICE TRIBUNAL, PESHAWAR.

Service Appeal No. 15917/2020

Adil Zaman

VS

Govt of KP & etc

.....

REJOINDER ON BEHALF OF APPELLANT

.....

RESPECTFULLY SHEWETH:

PRELIMINARY OBJECTIONS:

(I-VIII) All objections raised by the respondents are incorrect and baseless. Rather the respondents are estopped to raise any objection due to their own conduct.

FACTS:

1. Admitted correct by the respondents.
2. Admitted correct as service record is already in custody of respondent Deptt.
3. Not replied according to para-3 of the appeal. Moreover para 3 of the appeal is correct. Furthermore the principal who remained in Govt: College of Commerce Mardan knew about the situation therefore he gave the certificate to the appellant.
4. Not replied according to para-4 of the appeal. Moreover para-4 of the appeal is correct as the letter of the concerned MPA to CM Khyber Pakhtunkhwa is the proof of political transfer of the appellant.
5. Incorrect. The Provincial Government issued proper posting transfer instructions for the servant and its instruction should be followed in its true letter and spirit while posting transfer a Government Servant. Moreover the transfer of the appellant is on political base which is discouraged by the Apex in its various judgments.
6. Incorrect. On PUC it is clearly mentioned that the *concerned has recently transferred to Government College of Management Sciences D.I.Khan vide para-4/N Chief Minsiter Directive approved.*

7. Incorrect. As explained in the preceding paras.

GROUND:

- A. Incorrect. The impugned order are against the posting transfer policy and superior court judgment therefore liable to be set aside.
- B. Incorrect. The Provincial Government issued proper posting transfer instructions for the servant and its instruction should be followed in its true letter and spirit while posting transfer a Government Servant. Moreover the transfer of the appellant is on political base which is discouraged by the Apex in its various judgments.
- C. Incorrect. As explained in para 5 and 6 above.
- D. Incorrect. As explained in the preceding paras.
- E. Subject to proof.
- F. Legal.

It is, therefore, most humbly prayed that the appeal of appellant may kindly be accepted as prayed for.

[Signature]
APPELLANT

Through:

[Signature]
(M. ASIF YOUSAFZAD)
ADVOCATE SUPREME COURT.

&

[Signature]
(TAIMUR ALI KHA)
ADVOCATE HIGH COURT

AFFIDAVIT

It is affirmed and declared that the contents of rejoinder and appeal are true and correct to the best of my knowledge and belief and nothing has been concealed from the honorable Tribunal.

ATTESTED

[Signature]
DEPONENT.



[Handwritten]
-02-221