Form- A

FORM OF ORDER SHEET

Court of _____

Case No. 1115/2014

S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	08/09/2014	The appeal of Mr. Muhammad Niaz resubmitted today by Mr. Khaled Rehman Advocate may be entered in the Institution register and put up to the Worthy Chairman for preliminary hearing. REGISTRAR
2	9-9-2014	This case is entrusted to Primary Bench for preliminary hearing to be put up there on 26-11-2014 CHAIRMAN

3.

Reader Note:

26.11.2014 Clerk of counsel for the appellant present. Since the Tribunal is incomplete, therefore, case is adjourned to 25.02.2015 for the same.

Reader

4.

25.02.2015 Clerk of counsel for the appellant present, and requested for adjournment. Request accepted. To come up for preliminary hearing on 03.04.2015.

Member

03.04.2015 Counsel for the appellant present. Application for withdrawal of appeal submitted in the light whereof the appeal is dismissed as withdrawn. File be consigned to the record.

Announced
03.04.2015

Chairman

03.04.15

Before the K.P. Service Tribunal Peshawar.

Service Appeal # 1115/14

Muhammad Vs Govt. etc.

Application for withdrawal of appeal.

Respectfully Sheweth,

1. That instant appeal is pending before the honourable Tribunal fixed for today.

2. That the grievance of appellant has been redressed and appellant does not wants to ~~withdraw~~ pursue the case any longer.

It is, therefore, humbly prayed that appellant may graciously be allowed to withdraw the appeal in hand.

8.4.15

appellant through

Khalid Rahman Adv.

The appeal of Mr. Muhammad Niaz HMIS coordinator Directorate of Health FATA received today i.e. on 08.08.2014 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

1- Memorandum of appeal may be got signed by the appellant.
2- The documents/Annexures-A to L referred to in the memo of appeal are not attached with the appeal which may be placed on it.
3- Copy of impugned order and departmental appeal against it are not attached with the appeal which may be placed on it.
4- Seven more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.

No. 1189 /S.T,

Dt. 8/8 /2014.

REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Khaled Rehman Adv. Pesh.

Sir
Need for extension of some time.

(1) Memorandum of appeal has been signed.
(2) Has been attached.
(3) Has been attached.
(4) Has been removed.

1187

INDEX

	Description of documents with annexures	Date	Annexure	Pages
1.	Copies of Service Appeal			1-7
2.	Impugned order of Appellate Authority dated 23.05.2005	23.05.2005	A	8-8
3.	Copies of Health PATA		B	9-13
4.	Impugned Pool Policy			
5.	Circular letter, Notifications	27.06.2006 05.07.2005	C	14-19
6.	Judgment of this Hon'ble Court in W.P.417/2012	17.6.2013	D	20-23
7.	Submitted representation under dated 22.07.2012		E	24-25
8.	Finance Department PATA letter	20.12.2012	F	26-26
9.	Approval of the A	23.06.2013	G	27-27
10.	Office Memorandum issued by SARRAM Division	07.01.2014	H	28-28
11.	Impugned Notification	19.6.2014	I	29-29
12.	Representation	16.6.2014	J	30-30
13.	Misc documents		K	
14.	Wakalat Nama		L	

Appellant

Khalid Rahman
Advocate, Peshawar
3-D, Haroon Mansion,
Khyber Bazar, Peshawar
Cell # 091-5276172

Dated ____/ ____/ 2014

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1115 /2014

Muhammad Niaz ..... Appellant

Versus

The Chief Secretary etc .....Respondents

INDEX

S.No.	Description of Documents	Date	Annexure	Pages
1.	Memo of Service Appeal			1-7
2.	Adjustment order of petitioner in Directorate of Health FATA	23.06.2001	A	0-8
3.	Surplus Pool Policy		B	9-13
4.	Circular letters/Instructions	07.09.2004 05.07.2003	C	14-19
5.	Orders of this Hon'ble'ble Court in W.P.4108/2010	17.04.2012	D	20-23
6.	Endorsed copies of the order dated 22.07.2013		E	24-25
7.	Finance Department FATA letter	26.12.2013	F	0-26
8.	Approval of the ACS	21.08.2013	G	0-27
9.	Office Memorandum issued by SAFRAON Division	07.01.2014	H	0-28
10.	Impugned Notification	19.03.2014	I	0-29
11.	Relieving Notification	19.03.2014	J	0-30
12.	Representation		K	31-32.
13.	Misc: documents		L	33-44
14.	Wakalat Nama			45.

Appellant

Through

Khaled Rahman
Advocate, Peshawar
3-D, Haroon Mansion,
Khyber Bazar, Peshawar.
Cell # 0345-9337312

Dated: 8 / 07/ 2014

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No. 1115 /2014

Muhammad Niaz
HMIS Coordinator,
Directorate of Health, FATA
Warsak Road, Peshawar
Presently at the disposal of Health Department
Govt. of Khyber Pakhtunkhwa .....Appellant

Versus

1. **The Chief Secretary,**
   Govt. of Khyber Pakhtunkhwa
   Civil Secretariat, Peshawar.

2. **The Additional Chief Secretary FATA**
   FATA Secretariat,
   Warsak Road, Peshawar.

3. **The Secretary to Govt. of Pakistan,**
   States & Frontier Regions Divisions (SAFRON)
   Pak Secretariat, Islamabad.

4. **The Secretary,**
   Social Sectors Department
   FATA Secretariat, Warksak Road, Peshawar.

5. **The Director Health Services (FATA),**
   FATA Secretariat, Warksak Road,
   Peshawar.....Respondents

SERVICE APPEAL UNDER SECTION 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNALS ACT, 1974 AGAINST THE IMPUGNED NOTIFICATION DATED 19.03.2014 ISSUED BY RESPONDENT NO.2 WHEREBY APPELLANT WAS UNLAWFULLY REPATRIATED FROM THE POST OF COORDINATOR DHIS FATA FROM THE DIRECTORATE HEALTH SERVICES FATA TO THE DIRECTORATE HEALTH SERVICES KHYBER

PAKHTUNKHWA AGAINST WHICH HE PREFERRED DEPARTMENTAL REPRESENTATION TO RESPONDENT NO.1 BUT THE SAME WAS NOT DISPOSED OF WITHIN THE STATUTORY PERIOD OF 90 DAYS.

PRAYER:

On acceptance of the instant appeal, the impugned Notification dated 19.03.2014 may graciously be set aside by restoring the position of the appellant as Coordinator DHIS FATA Directorate Health Services FATA with all back benefits.

Respectfully Sheweth,

Facts giving rise to the present appeal are as under:-

1. That appellant was appointed as Statistical Officer (BPS-16) on the recommendation of Khyber Pakhtunkhwa Public Service Commission way back in the year 1990 in the Directorate of Health Services, Government of Khyber Pakhtunkhwa.

2. That after the introduction of devolution Plan in the year 2001, appellant became surplus and was adjusted at the Directorate of Health Services FATA vide office order dated 23.06.2001 (**Annex:-A**) issued by the Director General Health Services, Khyber Pakhtunkhwa as by then the Director Health Services FATA was also under his administrative control. The adjustment was made under the Surplus Pool Policy (**Annex:-B**) which was subsequently clarified vide circular letters dated 07.09.2004 and 05.07.2003 (**Annex:-C**)

thereby declaring that once re-adjusted in a Department, a surplus employee becomes employee of that Department permanently and that the adjustment order can not be withdrawn.

3. That during their services, appellant and his other colleague Statistical Officers (BPS-16) were entitled for upgradation to BPS-17 on the analogy of similar other posts in BPS-17 in other Provinces as well as in the Province of Khyber Pakhtunkhwa then NWFP, therefore, appellant and his other colleagues approached Hon'ble Peshawar High Court, Peshawar in W.P.No.4108/2010 which was allowed vide Judgment dated 17.04.2012 (**Annex:-D**). The operative part of the Judgment is as under:-

> ***"In view of the above admitted and undeniable position, we are left with no option but to admit and allow this petition and direct the Respondents to promote/upgrade the posts of appellants from Statistical Officers (BPS-16) to HMIS (BPS-17) w.e.f. 09.06.2004, when the final decision was taken by all concerned in the meeting which was presided over by the Secretary Health and was subsequently acknowledged by the Secretary Finance, Government of the then NWFP with no order as to costs."***

The case then was processed for C.P.L.A before the august Supreme Court of Pakistan but the same was found unfit for C.P.L.A, hence the judgment ibid of the Hon'ble High Court attained finality.

4. That the Govt. of Khyber Pakhtunkhwa while implementing the order of the Hon'ble Peshawar High Court, Peshawar upgraded the posts of all the writ petitioners from Statistical Officers (BPS-16) to Coordinator HMIS (BPS-17) w.e.f. 09.06.2004 including appellant vide order dated 22.07.2013 but since appellant was serving at FATA and he could be upgraded only by the FATA Administration, therefore, copies (**Annex:-E**) of the order dated 22.07.2013 were endorsed to Secretary Finance, Secretary Social Sectors Departments FATA and Director Health Services FATA.

5. That the Finance Department FATA vide its letter dated 26.12.2013 (**Annex:-F**) processed the case of the appellant for the subject upgradation and requested Respondent No.3 (Secretary SAFRON) for obtaining sanction of the Establishment Division and Finance Division. Moreover, the approval of the Additional Chief Secretary FATA (Respondent No.2) was also obtained (**Annex:-G**). Whereafter the SAFRON Division vide its office Memorandum dated 07.01.2014 (**Annex:-H**) endorsed the case of upgradation of the appellant to the Secretary Establishment Division, Government of Pakistan.

6. That since it was a Court decision which did not require the approval of each and every functionary but while the case of upgradation of appellant was in the process when vide impugned Notification dated 19.03.2014 (**Annex:-I**) issued by Respondent No.2, appellant was unlawfully and without lawful authority repatriated to the Health Department, Govt. of Khyber Pakhtunkhwa after almost 13 years on the false pretext of non-

availability of vacancies in BPS-17 in the Directorate Health FATA while the fact is that the post of Computer Programmer and Accounts Officer (BPS-17) are already lying vacant in the Directorate Health Services FATA. The appellant was also relieved quite arbitrarily from the post of Coordinator DHIS vide Notification dated 19.03.2014 (**Annex:-J**) as well as from the post of Senior Planning Officer: a post in the Project to which he was independently selected on the basis of merit in open competition after advertisement and selection process.

7. That appellant, being aggrieved of the impugned Notification ibid, preferred Departmental Representation (**Annex:-K**) to Respondent No.1 thereagainst but the same was not disposed of within the statutory period of 90 days, hence this appeal inter-alia on the following grounds:-

Grounds:

A. That Respondents have not treated appellant in accordance with law, rules and policy on subject and acted in violation of Article 4 of the Constitution of Islamic Republic of Pakistan, 1973 and unlawfully issued the impugned Notification, which is unjust, unfair and hence not sustainable in the eye of law.

B. That after the adjustment of the appellant in the Directorate of Health Services FATA in the year 2001 in pursuance of the restructuring/re-organization of the Departments as a result of devolution process, appellant had become the permanent employee of the Directorate Health

Services FATA and therefore, his sudden repatriation is totally illegal, arbitrary and without lawful authority, hence is not sustainable under the law.

C. That appellant has rendered 13 years service in the Directorate Health Services as its permanent employee. He was not on deputation strictly to the Directorate Health Services FATA nor he has been treated as such, therefore, the impugned Notification is unwarranted, void ab-initio and thus liable to be struck down.

D. That the law on this particular point has been clarified that where a surplus employee is adjusted in Department other than his own then after such adjustment he severs all sort of relations with his previous Department and becomes the member of the new Department for all legal and practical purposes and once adjusted he cannot be re-adjusted in the original Department. Viewed from this background the impugned Notifications are against the instructions of the government which is against the ethics of good governance.

E. That the solitary objective behind the impugned Notification was the frustration of the judgment of the Hon'ble High Court, Peshawar passed in W.P.No.4108/2010 decided on 17.04.2012 wherein appellant was upgraded to a BPS-17 post with retrospective effect, therefore, the impugned Notification amount to the contempt of the order of the Hon'ble Peshawar High Court, Peshawar and

liable to be brushed aside on this single ground.

F. That appellant would like to offer some other ground at the time of arguments.

It is, therefore, humbly prayed that the instant appeal may graciously be accepted as prayed for above.

Any other relief as deemed appropriate in the circumstances of case not specifically asked for, may also be granted to appellant.

Appellant

Through

Khaled Rahman,
Advocate, Peshawar.

Dated: 8 / **07/ 2014**

B

DIRECTOR GENERAL HEALTH SERVICES, NWFP PESHAWAR.

(12)

OFFICE ORDER

Mr. Muhammad Niaz, Statistical Officer working at Directorate General of Health Services, Peshawar, has been adjusted as Statistical Officer at Directorate of Health Services, FATA Peshawar on abolition of his post during devolution process with immediate effect in the best interest of public service

ANNEX A

(8)

Sd/-
Director General Health Services,
NWFP, Peshawar.

No: 9415-19 /DGHS/ADMN dated Peshawar 23 /06/2001

Copy to:

1. Director Health Services, FATA Benevolent Fund Building Peshawar Cantt.
2. Assistant Director Personnel-I Director General Health Services, NWFP, Peshawar.
3. Accountant General NWFP, Peshawar.
4. Officer concerned

for information & necessary action.

Director General Health,
Services, NWFP, Peshawar
23/6/01

Attested to be True Copy

ATTD

D

E

Annex "B" (9)

(13)

Surplus Pool Policy

Policy for declaring government servants as surplus and their subsequent absorption/ adjustment.

I am directed to refer to the subject noted above and to say that the Provincial Government has been pleased to make the following policy for absorption/adjustment of Government Servants declared as surplus in view of the transition of District System and resultant re-structuring of the Government Organizations/Departments etc.

1. POWER WITH REGARD TO THE DECLARATION OF POSTS AS SURPLUS.

The Finance Department in consultation with Department concerned and with the approval of competent authority would decide with regard to the declaration of a particular organization, set up or individual post as redundant or inessential.

2. CREATION OF SURPLUS POOL

There will be a surplus pools cell in the E&AD. After abolition of such posts in the concerned department, duly notified by the Finance Department, equal number of posts in the corresponding basic pay scales would be created in the E&AD for the purpose of drawl of pay and allowances etc by the employees declared surplus as such.

3. IMPLEMENTATION/MONITORING CELL

For the purpose of coordination and to ensure proper and expeditious adjustment/ absorption of surplus staff, the Government of NWFP has been pleased to constitute the following committee:-

a. Additional Secretary(Establishment) E&AD.....Chairman.
b. Deputy Secretary LG&RD Department.....Member
c. Deputy Secretary Finance Department.....Member
d. Deputy Secretary(Establishment) E&AD.....Secretary

4. CRITERIA FOR DECLARING A GOVERNMENT SERVANT AS SURPLUS AS A RESULT OF ABOLITION OF POST.

Consequent upon the abolition of a post in a particular cadre of a department, the junior most employee in that cadre would be declared as surplus. Such posts should be abolished in the respective departments and created in the surplus pool as indicated in para 2 above for the purpose of drawl of pay and allowances and also for consideration for subsequent adjustment.

5. PROCEDURE FOR ADJUSTMENT OF SURPLUS EMPLOYEES

Notwithstanding anything contained in any other law, rules or regulation to the contrary, for the time being in force, the following procedure for the adjustment of surplus staff would be followed:-

(a) Before transferring an employee to the surplus pool, he should be given option by the concerned department.

Attested to be True Copy.

(i) to proceed on retirement with normal retiring benefits under the existing rules;

OR

(ii) to opt for readjustment/absorption against a future vacancy of his status/BPS which may not necessarily be in his original cadre/ department.

(b) Those who opt for retirement would be entitled for usual pension and gratuity according to the existing Government Servants Pension and Gratuity Rules of the Provincial Government. Those who opt for absorption/re-adjustment, a category-wise seniority list will be caused in the surplus pool for their gradual adjustment against the future vacancies as and when occurred in any of the Government Departments. These adjustments shall be on seniority-cum-fitness basis. For this purpose, the seniority list will be caused category-wise with reference to their respective dates of appointment in the cadre. In case where dates of appointment of two or more persons are the same, the person older in age shall rank senior and shall be adjusted first.

(c) Adjustment shall be made on vacant post pertaining to initial recruitment quota from those in the surplus pool in the following manner:-

(i) In case of occurrence of vacancies in their corresponding posts in any Government Department/ Organization, the senior most employee in the surplus pool should be adjusted first.

(ii) In case of cross cadre adjustment, the persons with such minimum qualification as prescribed in the relevant Service Rules for the post in question shall be adjusted keeping in view their seniority position.

(iii) If an employee possesses the basic academic qualification but lacks the professional/technical qualification, he may be adjusted against such post subject to imparting the requisite training.

(iv) (a) The surplus employees holding such posts which fall to promotion quota in about all the Departments, he shall remain in the surplus pool till the availability of a post in the parent department.

OR

(b) Where no equivalent post is available the civil servant may be offered a lower post in such manner, and subject to such conditions, as may be prescribed and where such civil servant is appointed to a lower post the pay being drawn by him in the post immediately preceding his appointment to a lower post shall remain protected.

(v) [84]In case an employee already adjusted against a lower post is declared surplus again, he shall regain his original pay scale.

(vi) [85]Surplus employees, who voluntarily opt, may be allowed adjustment in Autonomous/Semi-autonomous bodies with the concurrence of these bodies, where the job is pensionable. The Government will pay pension contribution for the period they rendered regular service under the Government.

[84] Sub para c (v) added to para 5 vide circular letter No.SORVI(E&AD)5-1/2005, dated 15.2.2006.

[85] Sub para c (vi) added to para 5 vide circular letter No.SORVI(E&AD)5-1/2005, dated 31.5.2006.

Attested to be True Copy

(d) If no suitable person is available in the surplus pool to be adjusted against the vacant/revised post, such a post would be filled up by initial recruitment manner after getting clearance from the E&AD.

(e) [86]Surplus Staff in BPS-01 to 15 shall not be adjusted in the district other than their district of domicile.

(f) To facilitate the adjustment of surplus staff, it will be incumbent upon the Administrative Department to take up the case with Finance Department for revival of the essential posts so retrenched as a result of general directive issued by Finance Department from time to time, giving cogent reasons/ justification. Against the resultant revival/restoration of the post, the concerned Department will place a requisition on the E&AD for transferring of suitable surplus employee against the said post.

(g) Unless the surplus employees in Class-IV are fully adjusted/ absorbed against their respective graded posts in various Government Departments/ Organizations, the general policy of the Finance Department regarding conversion of BPS-1 & 2 posts to posts in fixed salary @ Rs.2000/- per month for contractual appointed should be restricted to the above extent.

6. FIXATION OF SENIORITY

The inter-se seniority of the surplus employees after their adjustment in various Departments will be determined according to the following principles:-

(a) In case a surplus employee could be adjusted in the respective cadre of his parent Department he shall regain his original seniority in that cadre.

(b) In case, however, he is adjusted in his respective cadre but in a Department other than his parent Department, he shall be placed at the bottom of seniority list of that cadre.

(c) In case of his adjustment against a post in a corresponding basic pay scale with different designation/nomenclature of the post, either in his parent Department or in any other department, he will be placed at the bottom of seniority list.

(d) [87]In case of adjustment against a post lower than his original scale, he shall be placed at the top of seniority list of that cadre, so as to save him from being rendered surplus again & becoming junior to his juniors.

Attested to be True Copy

[86] (3) Sub para (e) added to para 5 vide circular letter No.SORVI/E&AD/5-1/2005, dated 19.1.2007.

[87] Sub para d added to para 6 vide circular letter No. SORVI(E&AD)5-1/2005, dated 15.2.2006

NOTE:-

In case the officer/official declines to be adjusted/absorbed in the above manner in accordance with the priority fixed as per his seniority in the integrated list, he shall loose the facility/right of adjustment/absorption and would be required to opt for pre-mature retirement from Government service

Provided that if he does not fulfill the requisite qualifying service for premature retirement he may be compulsorily retired from service by the competent authority.

7. COMPETENT AUTHORITY TO NOTIFY/ORDER ADJUSTMENT/ABSORPTION.

After the transfer of services of surplus employee to a Department for adjustment/absorption against a vacant/revived post, the Competent Authority to notify/order his absorption/adjustment, shall be the respective appointing authority under the relevant rules for the post.

Provided that the decision of adjustment/absorption of surplus employees by the E&AD shall be binding upon the respective appointing authorities.

(Authority: letter NO.SOR-I(E&AD)1-200/98, Dated 8th June, 2001)

Decision of the meeting of chief secretary with district coordination officers, on the issue of surplus pool.

I am directed to refer to the subject noted above and to say that a meeting was held on 4.8.2001 in the Cabinet Room Civil Secretariat under the Chairman of Chief Secretary, NWFP to discuss the issues relating to adjustment of employees rendered surplus due to restructuring of the Government Departments and Devolution of Power Plan, 2000. The following decisions were taken in the said meeting:-

i) Administrative Departments may reconsider adjustments already made against the available posts at District level. The guiding principle for reviewing the adjustment would be aimed at avoiding dislocation of the employees to the possible extent.

ii) The DCOs will maintain the surplus pool of the employees, declared surplus in the District cadres and their subsequent adjustment against the vacant posts (District Cadres). It must be ensured that only the junior most employees in the scale in the cadre be declared surplus. At the stage of adjustment of Class-IV posts, the senior most be adjusted first. However, for the other posts besides seniority, the background of the individual and requisite experience of the posts shall be kept in view. The surplus pool of Divisional cadres be maintained by the DCOs posted at divisional headquarters.

iii) The surplus pool of the employees of the Head Offices be maintained by the Head of the concerned Attached Department. Declaring employees surplus and their subsequent adjustment be made strictly according to the spirit of the policy of the Provincial Government issued vide circular letter No.SORI (S&GAD)1-200/98, dated 8.6.2001.

Attested True Copy

iv) The surplus pool of the Secretariat be maintained by the Establishment Department in consultation with the Department concerned.

v) The salaries of the surplus employees be disbursed through their relevant offices for the time being.

vi) It was also felt that the sanctioned staff for the office of DCO and other offices is not sufficient. The ministerial staff has no appropriate tiers for the purpose of control and promotion i.e. Senior Clerk and Superintendent etc. The post of Chowkidar/ Sweeper does not exist in the office of DCOs and other offices. Even the other required staff does not meet the bare minimum. The DCOs will, therefore, forward the required proposal for consideration of Finance Department. The budget for the same can be arranged from the available savings due to phasing away of magistracy etc.

vii) The LR&RD Department may reconsider the adjustment of the employees of the Local Council Board, so as to find out whether any such employees have been adjusted against the regular Government posts funded from the Provincial Consolidated Fund.

viii) For adjustment of regular Class-IV (BS 1- 4) Government Servant in surplus pool, Finance Department may consider conversion of fixed pay/ contract posts into regular.

2. It is requested that decisions taken during the meeting held on 4.8.2001 may kindly be implemented by all concerned in letter and spirit and compliance report be furnished accordingly.

(Authority; letter NO.SOR-I(S&GAD)1-200/98 (Vol.I), Dated 13th August, 2001)

Attested to be
True Copy

Better Copy

GOVERNMENT OF N.W.F.P.
ESTABLISHMENT DEPTT.

NO.SOS.POOL(E&AD)3-20/2002

Dated 07.9.2004

To

1. All Administrative Secretaries to Government of NWFP.

2. All Distt: Coordination Officers in NWFP.

ANNEX C

14

Subject: **PROPER AND EXPEDITIOUS ADJUSTMENT OF SURPLUS STAFF**

Dear Sir,

I am directed to refer to the above noted subject and to say that adjustment of surplus staff regulated under section11A of the NWFP Civil Servants Act, 1973 inserted vide Notification No.Legis.I(21)73/2953/2995 dated 04.6.2001 and the laid down policy on the subject.

2. However, it has been noticed that in some cases adjustment orders once issued are withdrawn after some days. Moreover, in some cases the surplus officials whose services are placed at the disposal of a Department/Office do not report for duty.

3. It not only creates confusion but also causes inconvenience to the Deptt/Office concerned at whose disposal the services of surplus staff had been placed.

4. I am, therefore, to request you that following principles may be kept in view while making adjustment of surplus staff.

(i) Surplus staff once adjusted by the competent authority in accordance with the Policy may be directed to report immediately for duty in the Deptt:/Office where he has been adjusted.

(ii) There is no concept of re-adjustment, however, re-adjustment is allowed if an employee has been adjusted in a district other than his district of domicile.

(iii) Adjustment orders if issued in accordance with the policy cannot be withdrawn; and

(iv) Willingness has to be obtained if an employee is adjusted against a lower post.

I am to request you to bring the position to the notice of all concerned for strict compliance to ensure proper and speedy adjustment of surplus staff.

Yours faithfully

Sd/-7/9/04
(AKHTAR SAEED TURK)
Section Officer (S.Pool)

Attested to be true Copy

E

Better Copy

15

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

No.SORV(E&AD)1-2/2003
Dated. 05.07.2003

To

1. All Administrative Secretaries to Govt. of NWFP.
2. All District Coordination Officers in NWFP.

Subject:- CLARIFICATION WITH REGARD TO ADMINISTRATIVE DEPARTMENT FOR STAFF POSTED IN OFFICES OF DCOS, ACOS, EDOS (F&P) & DROS.

Dear Sir,

I am directed to refer to the subject noted above and to say that there is a general misconception about the Administrative Department of the staff of the office of the defunct Commissioners, Deputy Commissioners & Magistracy etc. The correct position is that once a Government servant is declared surplus, he severs all his link with the Department in which he was working before his becoming surplus. On re-adjustment he becomes member of the new Department.

2. The Establishment Department circular No.S(O&M)E&AD/3-3/2002, dated 11.01.2003 is not being interpreted properly. The above dated circular clearly states that BOR will be the Administrative Department for those employees of the offices of the Commissioners, Deputy Commissioners, Additional Deputy Commissioners and Assistant Commissioners etc. in BPS-15 and below who became surplus and were subsequently adjusted in the offices of the DCOs, ACOs, EDOs & DROs in the District Government. Those employees of the defunct Commissioners, Deputy Commissioners, Additional Deputy Commissioners, Assistant Commissioners and Magistracy who have been adjusted by the relevant authorities in the other Departments have no link with the Revenue & Establishment Department. Their Administrative Department will be the Department in which they stood adjusted for example a surplus Junior Clerk of the defunct Magistracy/D.C. office, on adjustment in the Agriculture Department will cease his links with the Revenue &

Attested to be
True Copy

Better Copy

Establishment Department as Administrative Department and his new Administrative Department will be the Agriculture Department. Likewise a surplus Government servant of the Agriculture Department absorbed in the office of DCO/ACO etc. will become member of the Revenue & Establishment Department, his service matters will be controlled by Revenue & Establishment Department and not the Agriculture Department. Seniority of these employees shall be fixed in accordance with para-6 of the absorption/adjustment policy, circulated vide letter No.SORI(E&AD)1-200/98 dated 08th June, 2001.

3. This clarification may kindly be brought to the notice of all concerned for future guidance.

Yours sincerely,

Sd/-
(S.Sardar Ali Shah)
Section Officer (Registrar-V)

Attested to be
True Copy

17

Attested
مقرر شدہ

GOVERNMENT OF N.W.F.P.
ESTABLISHMENT DEPTT.
NO.SOS.POOL(E&AD)3-20/2002
Dated 07.9.2004

To

1. All Administrative Secretaries to Government of NWFP.
2. All Distt Coordination Officers in NWFP.

Subject: PROPER AND EXPEDITIOUS ADJUSTMENT OF SURPLUS STAFF

Dear Sir,

I am directed to refer to the above noted subject and to say that adjustment of surplus staff is regulated under section-11A of the NWFP Civil Servants Act, 1973 inserted vide Notification No.Legis.1(21)73/2953/2995 dated 04.6.2001 and the laid down policy on the subject.

2. However, it has been noticed that in some cases adjustment orders once issued are withdrawn after some days. Moreover, in some cases the surplus officials whose services are placed at the disposal of a Department/Office do not report for duty.

3. It not only creates confusion but also causes inconvenience to the Deptt/Office concerned at whose disposal the services of surplus staff had been placed.

4. I am, therefore, to request you that following principles may be kept in view while making adjustment of surplus staff.

(i) Surplus staff once adjusted by the competent authority in accordance with the policy may be directed to report immediately for duty in the Deptt/Office where he has been adjusted;

(ii) There is no concept of re-adjustment; however, re-adjustment is allowed if an employee has been adjusted in a district other than his district of domicile;

(iii) Adjustment orders if issued in accordance with the policy cannot be withdrawn; and,

(iv) Willingness has to be planned if an employee is adjusted against a lower post.

I am to request you to bring the position to the notice of all concerned for strict compliance to ensure proper and speedy adjustment of surplus staff.

Yours faithfully,

7/9/04

(AKHTAR SAEED TURK)
Section Officer(S.Pool)

Attested to
True Copy

E/1

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

No.SORV(E&AD)1-2/2003
Dated.05.07.2003

To:
1. All Administrative Secretaries to Govt. of NWFP.
2. All District Coordination Officers in NWFP.

Subject:- CLARIFICATION WITH REGARD TO ADMINISTRATIVE DEPARTMENT FOR STAFF POSTED IN OFFICES OF DCOS, ACOS, EDOS(F&P) & DROS

Dear Sir,

I am directed to refer to the subject noted above and to say that there is a general misconception about the Administrative Department of the staff of the offices of the defunct commissioners, Deputy Commissioners & Magistracy etc. The correct position is that once a Government Servants is declared surplus, he severs all his links with the Department in which he was working before his becoming surplus. On re-adjustment he becomes member of the new Department.

2. The Establishment Department Circular No.SO(O&M)E&AD/3-3/2002, dated 11.01.2003 is not being interpreted properly. The above cited circular clearly states that 'BOR' will be the Administrative Department for those employees of the offices of the Commissioners, Deputy Commissioners, Additional Deputy Commissioners and Assistant Commissioners etc in BS-15 and below who became surplus and were subsequently adjusted in the offices of the DCOs, ACOs, EDOs and DROs in the District Government. Those employees of the defunct Commissioners, Deputy Commissioners, Additional Deputy Commissioners, Assistant Commissioners and Magistracy who have been adjusted by the relevant authorities in other departments have no link with the Revenue & Establishment Department. Their Administrative Department will be the department in which they stood adjusted. For example a surplus Junior Clerk of the defunct Magistracy/D.C office, on adjustment in the Agriculture Department will cease his links with the Revenue &

Attested to be True Copy

(130) para 3

Establishment Department as Administrative Department and his new Administrative Department will be the Agriculture Department. Likewise a surplus government servant of the Agriculture Department absorbed in the office of DCO/ACO etc will become member of the Revenue & Establishment Department and his service matters will be controlled by the Revenue & Establishment Department and not the Agriculture Department. Seniority of these employees shall be fixed in accordance with para-6 of the absorption/adjustment policy circulated vice letter No.SOR1(R&AD)1-200/98 dated 8th June, 2001.

3. This clarification may kindly be brought to the notice of all concerned for future guidance.

Yours sincerely,

(Sardar Ali Shah)
Section Officer(Reg-V)

Attested to be True Copy

PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET

Court of.....

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

Date of Order of Proceedings	Order of other Proceedings with Signature of Judge.
1	2
17.04.2012	*W.P.No. 4108/2010.* Present: Mr. Khalid Rehman, Advocate, for the petitioners. Mr. Obaid Razzaq, AAG along with Muhammad Hayat Shah, SO Litigation & Kashif, Clerk of Finance Department. *** *DOST MUHAMMAD KHAN, C.J.-* Petitioners were appointed as Statistical Officers (BPS-16) in the year 1990. They served on the said posts to the full satisfaction of their employer, however, when the posts of Statistical Officers were upgraded to Health Management Information System Coordinators (HMIS) BPS-17, they were deprived of their vested rights because their nomenclature has been changed to HMIS Coordinators but in the same grade i.e. their posts have not been upgraded to BPS-17.

Attested to be True Copy

2. At a later stage when their representation did not bear fruit, they filed W.P.No. 244/2002 which was withdrawn on 28.05.2003 with permission to file a fresh one because by then some positive signals were received by them.

3. In the meeting held on 09.06.2004, headed by the Secretary Health, the parent department of the petitioners, it was strongly recommended that the petitioners be readjusted as HMIS, however, when this order was not implemented, they brought another writ petition bearing No. 396/2005 and vide order dated 13.04.2006 the respondents were directed to implement the decision taken on 09.06.2004, per minutes attached to the writ petition.

4. Once again the bureaucratic tactics were pressed into service and despite of repeated correspondence made between the Secretary Health & Secretary Finance,

admitting & confirming that the petitioners were entitled to BPS-17, the posts of the petitioners were not upgraded, indeed the Finance Department squarely & without any reservation, acknowledged its additional liability with regard to the payment of emoluments to the petitioners on their promotion / up-gradation.

5. Even today when we asked the learned Additional Advocate General and the representative of two departments that what is the impediment in the way of the Government, not giving practical shape to the final decision taken by it, and when none is opposing within the rank & file of the Government the due promotion of the petitioners, the reply was that they could not discover any reason for the inaction on the part of the respondents, who have squarely admitted to upgrade & promote the petitioners, as is evident from their mutual correspondence.

Attested to be True Copy

6. In view of the above admitted & undeniable position, we are left with no option but to admit & allow this petition and direct the respondents to promote / upgrade the posts of the petitioners from Statistical Officers (BPS-16) to HMIS (BPS-17) with effect from 09.06.2004, when the final decision was taken by all concerned in the meeting which was presided over by the Secretary Health and was subsequently acknowledged by Secretary Finance, Government of the then NWFP, with no order as to costs.

CHIEF JUSTICE

JUDGE

Attested to be True Copy

/*Saif*/

GOVT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated the Peshawar 22nd July, 2013

ORDER

No. SOH-III/8-89/2012(Muhammad Niaz). Pursuant to the order dated: 17-04-2012, of Peshawar High Court Peshawar, the Competent Authority has been pleased to allow up-gradation of the following Statistical Officers (BS-16) to Coordinator HMIS (BS-17) w.e.f 09-06-2004.

1. Muhammad Niaz (S.O), Directorate of Health Services FATA.
2. Muhammad Nisar (P.O), Directorate of Health Services FATA.
3. Mehboob Elahi (Superintendent), Executive District Health Office Kohat.
4. Muhammad Ayaz (Coordinator HMIS), Executive District Health Office Bannu.
5. Zafar Iqbal (Accountant), District Head Quarter Hospital Mansehra.
6. Bilal (Statistician), Khyber Medical College, Peshawar.

2. The expenditure involved will be debatable to relevant head of account of their respective offices.

Secretary to Govt. of Khyber Pakhtunkhwa
Health Department

FINANCE DEAPRTMENT

Endst: No. SO(FR)/FD/7-3/2012(A) Dated: 22-07-2013

Copy forwarded to Account General, Khyber Pakhtunkhwa Peshawar for information.

Section Officer (FR),
Finance Department

Endst: No. SOH-III/8-89/2012. Dated: 23 -07-2013

Copy forwarded to:-

1. The Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department Peshawar.
2. Secretary Finance, FATA Secretariat Peshawar.
3. Secretary Social Sector Department, FATA Secretariat Peshawar.
4. Section Officer (FR), Finance Department, with reference to his letter No. SO(F[illegible]/FD/7-3/2012(A) dated: 18-07-2013.
5. The Dir[illegible] General Health Services, Khyber Pakhtunkhwa, Peshawa[illegible]
6. PS to [illegible] Government of Khyber Pakhtunkhwa, Establi[illegible]partment.
7. PS to S[illegible]ealth, Khyber Pakhtunkhwa.
8. Officer[illegible]

Attested to
True Copy

GOVT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated the Peshawar 22nd July, 2013

ORDER

No. SOH-III/8-89/2012(Muhammad Niaz). Pursuant to the order dated 17-04-2012, of Peshawar High Court Peshawar, the Competent Authority has been pleased to allow up-gradation of the following Statistical Officers (BS-16) to Coordinator HMIS (BS-17) w.e.f 09-06-2001.

1. Muhammad Niaz (S.O), Directorate of Health Services FATA.
2. Muhammad Nisar (P.O), Directorate of Health Services FATA.
3. Mehboob Elahi (Superintendent), Executive District Health Office Kohat.
4. Muhammad Ayaz (Coordinator HMIS), Executive District Health Office Bannu.
5. Zafar Iqbal (Accountant), District Head Quarter Hospital Mansehra.
6. Bilal (Statistician), Khyber Medical College, Peshawar.

2. The expenditure involved will be debatable to relevant head of account of their respective offices.

Secretary to Govt. of Khyber Pakhtunkhwa
Health Department

FINANCE DEAPRTMENT

Endst: No. SO(FR)/FD/7-3/2012(A) Dated: 22-07-2013.

Copy forwarded to Account General, Khyber Pakhtuankhwa Peshawar for information.

No: 1889/PA 13-08-13

Section Officer (FR),
Finance Department

OFFICE OF THE DG HEALTH SERVICES, KHYBER PAKHTUNKHWA PESHAWAR.
No. 19923-38 /E.I, Dated Pesh: the 15/8 /2013.

Copy to the :-

01. DHS FATA Peshawar.
02. DHO, Kohat.
03. DHO, Bannu.
04. DHO, Haripur.
05. DHO, Manschra.
06. DHO, Abbottabad.
07. Principal, KMC Peshawar.
08. AG, Khyber Pakhtunkhwa Peshawar.
09. DAOs, Kohat, Bannu, Haripur, Manschra, Abbottabad.
14. Officers concerned.
15. AE-IV, DGHS Office Peshawar.
16. AE-I, DGHS Office Peshawar.

For information and necessary action.

Attested to be True Copy

ASSISTANT DIRECTOR (P-I)
DGHS KPK PESHAWAR.

15/8

Finance Department

FATA SECRETARIAT
(FINANCE DEPARTMENT)
WARSAK ROAD PESHAWAR

No. SO(FATA-I)FD/FS/4-1/31/2012 /295
Dated Peshawar the 26th Dec, 2013

To

The Secretary,
SAFRON Division,
Government of Pakistan,
Islamabad.

Subject:- UPGRADATION/CONVERSION OF THE POST OF STATISTICAL OFFICER HEALTH DIRECTORATE FATA TO HMIS COORDINATOR

Dear Sir,

I am directed to state that in pursuance of a judgment dated 17.4.2012 of Peshawar High Court, Peshawar (Annex-A), the Provincial Government of Khyber Pakhtunkhwa, vide its notification dated 22.7.2013 (Annex-B), has allowed re-designation and upgradation of the post of Statistical Officer (BPS-16) as HMIS Coordination (BPS-17), w.e.f 9.6.2004. This has necessitated upgradation and re-designation of corresponding post in FATA, because according to Presidential Order No.13 of 1972 (Annex-B) the employees serving in FATA are treated as employees of the Provincial Government, working here as on deputation to the Federal Government. As such, they are entitled to the same terms and conditions of service, as prescribed by the Provincial Government for its corresponding employees, from time to time.

2. It is requested that sanction of the Regulation Wings, Establishment Division and Finance Division may kindly be sought for re-designation/upgradation of the post of Statistical Officer in the Health Directorate FATA, w.e.f 9.6.2004.

3. Financial implications of the proposed upgradation/re-designation work out to Rs. 132,252/- per annum, as shown at Annex-D, whereas the total financial implications from 9.6.2004 to 30.6.2014, requiring provision in the current financial year (2013-14), work out to Rs. 770,676/-, as per Annex-E.

Yours faithfully

Section Officer (FATA-I)

Attested to be True Copy

DIRECTORATE OF HEALTH & POPULATION WELFARE
FATA SECRETARIAT PESHAWAR.

ANNEX G (27)

Subject:- UPGRADATION / CONVERSION OF THE POST OF STATISTICAL OFFICER HEALTH DIRECTORATE FATA TO HMIS COORDINATOR.

1. PUC is a notification issued by the Finance Department Khyber Pakhtunkhwa and endorsed by Secretary Health Govt: of Khyber Pakhtunkhwa to Secretary Social Sectors Department FATA and Secretary Finance FATA Secretariat regarding the subject noted above.

2. The post of Statistical Officer has been upgraded from BPS-16 to HMIS Coordinator BPS-17 in the light of the decision of the Peshawar High Court Peshawar with effect from 09.06.2004, copy of the decision is attached at Flag-A.

3. As the post of Statistical Officer BPS-16 on the strength of Health Directorate FATA is also converted to HMIS Coordinator BPS-17; therefore the same needs inclusion in the Budget Book.

4. In this regard the case was submitted to Finance Department FATA by Social Sectors Department FATA Secretariat vide letter No. FS/SO/(H)/SSD/2013/1111-13 dated 05.08.2013 , copy attached at Flag-B.

5. The Finance Department FATA has advised for getting of the approval of Additional Chief Secretary FATA being the principal Accounting Officer, before moving the case to the Finance Division Islamabad vide letter No. SO (F-1)FD/FS/4-1/31/13 dated 07.08.2013, copy attached at Flag-C.

6. It is therefore requested that approval of Additional Chief Secretary FATA may be taken, please.

Director Health Services,
FATA, Peshawar.

Secretary Social Sectors FATA

7. para 1-6/N may be approved pl.

ACS

Attested to be True Copy
21/8/13
Secretary
Social Sectors Department
FATA Secretariat

Approved.

9. Secy/SSD - DHS

ANNEX H' (28)

F.No.3(2)-TA/2014
GOVERNMENT OF PAKISTAN
STATES & FRONTIER REGIONS DIVISION
****

Islamabad, 7th January, 2014

OFFICE MEMORANDUM

Subject: UP-GRADATION/CONVERSION OF THE POST FOR STATISTICAL OFFICER HEALTH DIRECTORATE FATA TO HMIS COORDINATOR.

The undersigned is directed to forward the case of Up-gradation of post of Statistical Officer (BPS-16) to HMIS Coordinator (BPS-17) in pursuance of Peshawar High Court, Judgment dated 17.04.2012. It is worth mentioning that Khyber Pakhtunkhwa Government had implemented Peshawar High Court decision and Up-graded the posts in Khyber Pakhtunkhwa. In view of the above, SAFRON Division endorses the case of Up-gradation of the above said posts.

2. This issues with the approval of Secretary SAFRON.

(MUHAMMAD SUHAIB)
Section Officer (TA)
Phone # 9209910

Secretary,
Establishment Division,
Government of Pakistan,
Isiamabad.

Copy to:

Additional Chief Secretary FATA.

Attested to be
True Copy

ANNEX I (29) H

FATA SECRETARIAT
(ADMINISTRATION, INFRASTRUCTURE & COORDINATION DEPARTMENT)
WARSAK ROAD PESHAWAR

Establishment Section

NOTIFICATION :-

No.FS/E/100-93/ 4392 - 4400 . The competent authority has been pleased to repatriate Mr. Niaz Khan Assistant Director (BS-17), Directorate of Health Services (FATA) Peshawar to Health Department Khyber Pakhtunkhwa with immediate effect due to non availability of a vacant post of BS-17 in the Directorate.

ADDITIONAL CHIEF SECRETARY (FATA)

Dated 19 /3/2014

Copy to:-

1. Secretary Health Department Khyber Pakhtunkhwa.
2. Secretary Social Sectors Department FATA Secretariat. The officer may kindly be relieved immediately.
3. Director General Health Services Khyber Pakhtunkhwa
4. Accountant General Khyber Pakhtunkhwa
5. Additional Accountant General (PR) Sub Office Peshawar
6. Director Health Services (FATA)
7. PS to Additional Chief Secretary FATA Secretariat
8. PS to Secretary A,I&C Department FATA Secretariat
9. Officer concerned

(JIBREEL RAZA)
Section Officer (Estal

Attested to be
True Copy

Annex J (30)

FATA SECRETARIAT
(ADMINISTRATION, INFRASTRUCTURE & COORDINATION DEPARTMENT)
WARSAK ROAD PESHAWAR

Establishment Section

ANNEX-R

NOTIFICATION :-

No.FS/E/100-93/ 4392-4400 The competent authority has been pleased to repatriate Muhammad Niaz Khan Coordinator HMIS (BS-17) presently working under Directorate of Health Services (FATA) to Health Department Khyber Pakhtunkhwa with immediate effect.

2- Consequent upon above, he is relieved of the charge of the post of Coordinator DHIS FATA as well as charge of all other posts entrusted to the said officer through additional charge assignments.

3- All assets, movable and immovable of FATA given to him should be taken over from the officer by the Directorate of Health Services (FATA).

4- This Notification substitutes the earlier Notification of Even No. & Date.

ADDITIONAL CHIEF SECRETARY (FATA)

Dated 19/3/2014

Copy to:-

1. Secretary Health Department Khyber Pakhtunkhwa.
2. Secretary Social Sectors Department FATA Secretariat.
3. Director General Health Services Khyber Pakhtunkhwa
4. Accountant General Khyber Pakhtunkhwa
5. Additional Accountant General (PR) Sub Office Peshawar
6. Director Health Services (FATA)
7. PS to Additional Chief Secretary FATA Secretariat
8. PS to Secretary A,I&C Department FATA Secretariat
9. Officer concerned

(JIBREEL RAZA)
Section Officer (Estab)

Attested to be True Copy

To,

The Chief Secretary
Khyber Pakhtunkhwa.

ANNEX K

(31)

Sub: - APPEAL FOR WITHDRAWAL OF REPATRIATION/TRANSFER ORDER

Dear Sir,

It is respectfully submitted that on the recommendation of the Khyber Pakhtunkhwa Public Service Commission, I was appointed in 1990 on regular basis as Statistical Officer in BPS 16 in Directorate of Health Services, Khyber Pakhtunkhwa. However, due to devolution, the post of Statistical Officer (BS-16) was abolished in Health Directorate, Khyber Pakhtunkhwa in 2001 and I was declared surplus as per Surplus Policy of the Government of Khyber Pakhtunkhwa. Subsequently, I was adjusted against the available post of Statistical Officer (BS-16) in Health Directorate (FATA) under the Surplus Policy. (Flag A,B)

Since on declaration of surplus I was suffered due to which I could not be promoted to next higher post even after lapse of more than 10 years, therefore, an appeal was filed in Peshawar High Court with the request of personal upgradation of my occupied post of Statistical Officer in Directorate of Health FATA from BS-16 to BS-17.The request was acceded to and in light of the decision of the Peshawar High Court Peshawar which has already attained finality, my occupied post of Statistical Officer in Health Directorate FATA has been upgraded to BS-17 with changed nomenclature as HMIS Coordinator since 2004 with all back benefits. (Flag C,D)

Now my case is in implementation stage as the Finance Department FATA has already moved a request to SAFRAON/Finance Division Islamabad for sanction of the up-gradation and inclusion of the post in FATA Budget Book with changed nomenclature. (Flag E,F,G)

However, all of sudden FATA Secretariat vide its Notification No.FS/100-93/4352-4400 Dated 19th March 2014 and Directorate of Health Services FATA endorsement No.5494-5500/DHS/FATA/Admn Dated 26th March 2014 has issued orders, repatriating me to the Provincial Health Department and relieving me on the plea that no post in BS-17 is available. (Flag H,I) Whereas, the factual position is that I was adjusted in Health Directorate FATA permanently under the Surplus Policy of the Provincial Government and there is no provision in the policy for my re-adjustment.

It is pertinent to mention that two posts in BPS 17 one Computer Programmer & other Accounts Officer are already lying vacant in FATA Health Directorate FATA and according to the court decision my current post has been upgraded with a changed nomenclature. Therefore, the plea to non availability of BS-17 post is not correct.

Attested to be
True Copy

In, view of the position explained above, it is humbly requested to kindly direct the FATA Secretariat to withdraw my repatriation orders immediately and ensure implementation of the orders of Peshawar High Court in letter and spirit and to avoid further litigation in the matter.

Sincerely Your's

Dated 14th April 2014

Mohammad Niaz
HMIS Coordinator
Directorate of Health FATA

Copy of the above is forwarded to the:-

1 Additional Chief Secretary FATA.
2 Secretary Health Khyber Pakhtunkhwa.
3 Director Health Services FATA.

Attested to be True Copy

33

ANNEX L

Government of Khyber Pakhtunkhwa
ESTABLISHMENT DEPARTMENT
(Regulation Wing)

No.SOR.IV(E&AD)/9-2/2014/
Dated, Peshawar, the April 25, 2014

To

The Secretary,
Administration & Coordination Department,
FATA Secretariat, Peshawar.

SUBJECT: *APPEAL FOR WITHDRAWAL OF REPATRIATION/TRANSFER ORDER*

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith the appeal of Mr. Muhammad Niaz, HMIS Coordinator, Directorate of Health FATA, for comments.

Yours faithfully,

(ISHTIAQ AHMAD)
Section Officer (R-IV)

Encl: As Above

Attested to be True Copy

Government of Khyber Pakhtunkhwa
ESTABLISHMENT DEPARTMENT
(Regulation Wing)

No.SOR.IV(E&AD)/9-2/2014/
Dated, Peshawar, the May 22, 2014

34

To

The Secretary,
Administration & Coordination Department,
FATA Secretariat, Peshawar.

SUBJECT: *APPEAL FOR WITHDRAWAL OF REPATRIATION/TRANSFER ORDER*

Dear Sir,

I am directed to refer to our letter of even number dated April 25, 2014, on the above captioned subject and to request to expedite your comments desired in the matter.

Yours faithfully,

(ISHTIAQ AHMAD)
Section Officer (R-IV)

Attested to be
True Copy

Government of Khyber Pakhtunkhwa
ESTABLISHMENT DEPARTMENT
(Regulation Wing)

35

No.SOR.IV(E&AD)/9-2/2014/
Dated, Peshawar, the July 08, 2014

To

The Secretary,
Administration & Coordination Department,
FATA Secretariat, Peshawar.

SUBJECT: *APPEAL FOR WITHDRAWAL OF REPATRIATION/TRANSFER ORDER*

Dear Sir,

I am directed to refer to our letter of even number dated April 25, 2014, followed by reminder dated 22/5/2014, on the above captioned subject and to state that the requisite comments are still awaited in the matter.

Yours faithfully,

(ISHTIAQ AHMAD)
Section Officer (R-IV)

Attested to be
True Copy

No.F.2(8)-TA/2006
GOVERNMENT OF PAKISTAN
STATES AND FRONTIER REGIONS DIVISION
****

36

Islamabad, the 1st Nov, 2007.

The Chief Secretary,
Government of NWFP,
Civil Secretariat,
Peshawar.

SUBJECT:- ADMINISTRATION OF THE FEDERALLY ADMINISTERED TRIBAL AREAS.

In supersession of this Division's letter No.6(15)-FI(SOI)/70, dated the 25th June, 1970, I am directed to state that the "Federally Administered Tribal Areas" have been defined in Article 246 of the Constitution of the Islamic Republic of Pakistan and Article 247(1) of the Constitution provides for the Executive Authority of the Federation to extend to these areas. In pursuance of the aforesaid provisions of the Constitution and in pursuance of the authority vested in him under Article 145 of the Constitution, the President has been pleased to direct that the Governor, NWFP, acting as Agent to the President for FATA, shall exercise immediate executive authority in these Areas.

2. To redefine its decades-old policy for the Federally Administered Tribal Areas and to make it more responsive to the needs of the time, particularly with regard to the implementation of a two-pronged strategy of accelerated economic development and of strengthening and restructuring the administrative infrastructure for more effective and efficient delivery of governance, the President of Pakistan, in pursuance of the provisions of Article 247 of the Constitution, has been pleased to establish the FATA Secretariat, to function as the Local Administration for these areas, within the meaning assigned to the expression in the Rules of Business, 1973.

3. Pursuant to the establishment of the FATA Secretariat, in so far as these relate to the Federally Administered Tribal Areas, the following arrangements are, therefore, made for the administration of these areas, namely:-

(a) the Chief Secretary, NWFP shall be responsible to the Governor for the maintenance of law and order as well as for the development of FATA. The Additional Chief Secretary (FATA) shall be the head of the FATA Secretariat, and report to the Governor through the Chief Secretary, NWFP. He will be required to keep the Ministry of States and Frontier Regions informed of such matters through the Chief Secretary, NWFP

Attested to be True Copy

(b) The FATA Secretariat shall consist of such posts as may be approved by the Federal Government from time to time, appointments to which shall be made by the Government of NWFP with the approval or under the authority of the Governor;

(c) the Secretaries to the Provincial Government of the NWFP in charge of the Departments of Law and Establishment shall, in addition to their own duties, also tender advice to the Local Administration of FATA on any issue or matter referred to them by the Additional Chief Secretary (FATA);

(d) all offices and line departments working in connection with the affairs of FATA, and funded by the Federal Government, shall be the subordinate offices and attached directorates of the FATA Secretariat.

(e) All official business in the FATA Secretariat shall be conducted in accordance with the Rules of Business formulated and approved by the Governor, NWFP;

(f) the Additional Chief Secretary (FATA) shall be the Principal Accounting Officer for all FATA budgetary allocations and the Finance Secretary (FATA) in addition to his duties as such, shall also perform the functions of the Financial Advisor of the Ministry of Finance for all FATA budgetary allocations;

(g) all budgetary allocations, including donor funds, for FATA shall be released directly by the Finance Division to the FATA Secretariat;

(h) the additional Chief Secretary (FATA) and Secretaries posted in the FATA Secretariat are authorized to correspond directly with the Federal Government Divisions. They will also be required to endorse the copies of all communications to the Ministry of States and Frontier Regions to keep that Ministry abreast of the developments. Any correspondence relating to matters of importance and policy shall be routed through the Chief Secretary NWFP;

(i) the day to day field administration of the Federally Administered Tribal Areas, and the coordination of all development work and functions of the line departments of the Government, shall be the responsibility of the Political Agents and District Coordination Officers in the Political Agencies and Frontier Regions, respectively, which shall be carried out by them under the supervision and direction of the Governor and the FATA Secretariat.

4. In the Federal Government, the States and Frontier Regions Division, being the Administrative Division for the Federally Administered Tribal Areas, shall continue to discharge its responsibilities, including consultation with other concerned Ministries of the Government wherever necessary, representation of the

The FATA Secretariat shall consist of such posts as may be approved by the Federal Govt from time to time. appointments to which shall be made by the Govt. of NWFP with the approval or under the authority of Governor.

ATTESTED

ADVOCATE

38

Local administration of these areas before the National Assembly and the Senate, liaison with the Economic Affairs Division and with foreign donors and lending agencies for external assistance for the development of these areas.

Yours sincerely,

(MUHAMMAD SAEED)
Joint Secretary (S&TA)

Copy to :-

1. Secretary to the President, President's Secretariat (Public), Islamabad.
2. Principal Secretary to the Prime Minister, Prime Minister's Secretariat, Islamabad.
3. All Divisions of the Federal Government.
4. Additional Chief Secretary (FATA), FATA Secretariat, Peshawar.
5. Secretary to Governor, NWFP, Peshawar.

Attested to be True Copy

ATTESTED

ADVOCATE

ACS
C/Sh.
Date:

Better Copy

Local Administration of these areas before the National Assembly and the Senate, liaison with the Economic Affairs Division and with foreign donors and lending agencies, for external assistance for the development of these areas.

39

Your sincerely,
Sd/-
(MUHAMMAD SAEED)
Joint Secretary (S&TA)

Copy to:-

1. Secretary to the President's Secretariat (Public), Islamabad.
2. Principal Secretary to the Prime Minister, Prime Minister's Secretariat, Islamabad.
3. All Divisions of the Federal Government.
4. Additional Chief Secretary (FATA), FATA Secretariat, Peshawar.
5. Secretary to Governor, NWEP, Peshawar.

ATTESTED

Attested to be
True Copy

ATTESTED
ADVOCATES

IN THE PESHAWAR HIGH COURT PESHAWAR

(21)

Annexure "[illegible]"

CIVIL SECRETARIAT FATA.
(ADMINISTRATION WING)

No. [illegible]

Peshawar, the 15th August 2006

1. All Political Agents.
2. All Heads of Line Departments (FATA).

Subject: OBSERVANCE OF LEGAL PROVISIONS IN APPOINTMENTS OF EMPLOYEES – CPLA NO.31-P/2006, TITLED ZAMIR GUL VERSUS GOVERNMENT OF NWFP.

I am directed to state that during the course of hearing of the subject petition, the Honourable Supreme Court of Pakistan, vide judgment dated 29-06-2006, has taken serious note of non-observance of mandatory provisions of rules, relating to the appointment of employees by initial recruitment and has directed that:-

> "(10). Before we part with the judgment we feel compelled to direct that as the employees working in the FATA are subject to all rules and regulation governing the other civil servants in the Province of NWFP in terms of the President's Order No.13 of 1972 and as the said rules provide for public advertisement of the available posts for making direct appointments to the said posts on merit and in transparent manner, therefore, the concerned authorities shall make all such appointment in accordance with the said rules regulating the subject."

I am further directed to request that strict adherence to relevant rules regarding appointment of employees by initial recruitment in your department/office must be ensured in compliance of the orders of the Honourable Supreme Court of Pakistan, as re-produced above, please.

Section Officer (Estab)

Copy to:-

1- Secretary, Establishment Department, NWFP, Peshawar.
2- Secretary, Environment Department, NWFP, Peshawar
3- Advocate General, NWFP, Peshawar.
4- PS to Additional Chief Secretary, (FATA).
5- PSs to All Secretaries, Civil Secretariat (FATA)

Dated: .12.2007.

Deputy Advocate General
NWFP, Peshawar.

ATTESTED
True Copy

Original

41

PRESIDENT'S ORDER 13 OF 1972
CENTRALLY ADMINISTERED TRIBAL AREAS
(EMPLOYEES STATUS) ORDER, 1972

No. [illegible] (1)/72-Pub.---- The following order made by the President on the [illegible] April 1972, is hereby published for general information:--

Whereas clause (2) of Article 5 of the Province of West Pakistan (Dissolution) Order, 1970 (P. O. No. 1 of 1970), hereinafter referred to as the said Order, provides that the Centrally Administered Tribal Areas shall be administered by the President acting, to such extent as he thinks fit, through such officers as he may appoint, an that the President may, in that behalf give such directions as he deems fit ;

Now, therefore, in pursuance of the Proclamation of the 25th day of March 1969, read with the Proclamation of the 20th day of December 1971, and in exercise of all powers enabling him in that behalf, the President and Chief Martial Law Administrator is pleased to make the following Order :----

1. *Short title and commencement* ----- (1) This Order may be called the Centrally Administered Tribal Areas (Employees Status) Order, 1972.

(2) It shall come into force at once and shall be deemed to have taken effect on the 1st day of July 1970, hereinafter referred to as the appointed day.

2. Definitions --- In this Order, unless there is anything repugnant in the subject or context

(a) "Centrally Administered Tribal Areas" shall have the same meaning as in the said Order;

(b) "Employees" means employees serving in connection with the affairs of the Centrally Administered Tribal Areas within or outside those areas including members of the Civil Service of the North West Frontier Province and all other Government servants not belonging to any Central or Provincial Service; and

ATTESTED

Attested to be
True Co

(c) "Provincial Government" means the Government of the North-West Frontier Province.

3. *Status of the employees of the Centrally Administered Tribal Areas.*—Notwithstanding anything contained in their conditions of service, the employees shall, as from the appointed day, be the employees of the Provincial Government on deputation to the Central Government and shall work under the overall administrative control of the Provincial Government, on the same terms and conditions of service as respects remuneration, leave and pension and the same rights as respects disciplinary matters or tenure of office as were applicable to them immediately before that day.

Provided that the employees shall not be entitled to deputation allowance for their service after the appointed day.

TRUE COPY

Section Officer (Lit)
Governor's Secretariat (FATA)
Peshawar

Attested to be
True Copy

ADVOCATE

, incl...
Province and ...
...al Service; and

Better Copy

43

60

PRESIDENT'S ORDER 13 OF 1972
CENTRALLY ADMINISTERED TRIBAL AREAS
(EMPLOYEES STATUS) ORDER, 1972

No.F.24(1)72-Pub.---The following order made by the President on the 19th April 1972 is hereby published for general information:-

Where clause (2) of Article 5 of the Province of West Pakistan (Dissolution) Order, 1970 (P.O: No.1 of 1970), hereinafter referred to as the said Order, provides that the Centrally Administered Tribal Areas shall be administered by the President acting, to such extent, as he thinks fit, through such officers as he may appoint, an the President may, in that behalf give such directions as he deems fit;

Now, therefore, in pursuance of the Proclamation of the 25th day of March 1969, read with the Proclamation of the 20th day of December 1971, and in exercise of all powers enabling him in that behalf, the President and Chief Martial Law Administrator is pleased to make the following Order:--

Short title and Commencement.---(1) This Order may be called the Centrally Administered Tribal Areas (Employees Status) Order, 1972.

(2) It shall come into force at once and shall be deemed to have taken effect on the 1st day of July 1970, hereinafter referred to as the appointed day.

2. Definitions.---In this Order, unless there is anything repugnant in the subject or context.

(a) "Centrally Administered Tribal Areas" shall have the same meaning as in the said Order;

(b) "Employees" means employees serving in connection with the affairs of the Centrally Administered Tribal Areas within or outside those areas including members of the Civil Service of the North West Frontier Province and all other Government servants not belonging to any Central or Provincial Service; and

ATTESTED

Attested to be True Copy

Better Copy

(44)

(c) "Provincial Government" means the Government of the North-West Frontier Province.

3. *Status of the employees of the Centrally Administered Tribal Areas.*— Notwithstanding anything contained in their conditions of service, the employees shall, as from the appointed day, be the employees of the Provincial Government on deputation to the Central Government and shall work under the overall administrative control of the Provincial Government, on the same terms and conditions of service as respects remuneration, leave and pension and the same rights as respects disciplinary maters or tenure of office as were applicable to them immediately before that day.

Provided that the employees shall not be entitled to deputation allowance for their service after the appointed day.

Attested to be True Copy

ATTESTED

ADVOCATE

بعدالت

مورخہ _____

مقدمہ _____

دعویٰ _____

جرم _____

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی وجواب دہی وکل کاروائی متعلقہ آن مقام _____ کیلئے _____ مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ کرنے وتقرر ثالث وفیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور بصورت ڈگری کرنے اجراء اور صولی چیک وروپیہ ارعرضی دعویٰ اور درخواست ہر قسم کی تصدیق زرایں پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برامدگی اور منسوخی نیز دائر کرنے اپیل نگرانی ونظر ثانی وپیروی کرنے کا اختیار ہوگا۔ ازبصورت 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 بااختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور وقبول ہوگا دوران مقدمہ میں جو خرچہ وہرجانہ التوائے مقدمہ کے سبب سے وہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں گے۔ کہ پیروی مذکورہ کریں لہذا وکالت نامہ لکھدیا کہ سند رہے۔

المرقوم _____ ماہ _____ 20ء

العبد _____ گواہ العبد _____

بمقام _____ کے لئے منظور ہے۔