

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No.3727/2020

Date of Institution ... 27.04.2020
Date of Decision ... 15.07.2020

Dr. Barkat Ali Khan S/O Akbar Ali Khan R/O Agriculture Research Institute
Tarnab, Peshawar Director (BPS-19) Agriculture, Research (Merged Area)
ARI, Tarnab, Peshawar.

(Appellant)

VERSUS

Chief Minister through Chief Secretary Khyber Pakhtunkhwa Peshawar & 04
others.

(Respondents)

Mr. Inayat Ullah Khan,
Advocate

For appellant.

Mr. Muhammad Jan
Deputy District Attorney

For official respondents.

Mr. Zartaj Anwar,
Advocate

For private respondent No.5

MRS. ROZINA REHMAN
MR. MIAN MUHAMMAD

... MEMBER (J)
... MEMBER (E)

JUDGMENT

ROZINA REHMAN. MEMBER :- Appellant Dr. Barkat Ali Khan has
assailed the notification #. SOE (AD)3(3)2/2019/RW dated 24.01.2020
whereby the appellant has been transferred from the post of Director
Agriculture, Research (Merged Areas) ARI, Tarnab, Peshawar to Principal
Research Officer Food Technology, Agriculture Institute, Tarnab Peshawar,
allegedly, prematurely and in violation of transfer/posting policy.

15/7/20

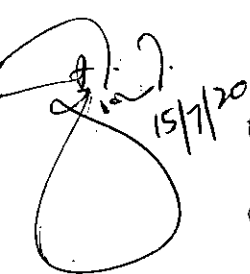
2. Precisely, stated facts of the case are that the appellant was promoted from the post of SRO Pesticide Residue (BPS-18) to the post of Director Research Ex-FATA (BPS-18) and as such he was posted on the position which was vacated by respondent #.5 vide order dated 11.10.2018. He then moved a letter to Director General with a request to direct respondent #.5 to handover the charge of the post but he was reluctant and after hectic efforts, he/respondent #.5 was directed to relieve/relinquish the charge forthwith. Finally respondent #.5 relinquished the charge on 22.11.2018. It was on 24.01.2020, when appellant was transferred prematurely to the post of Principal Research Officer while respondent #.5 was once again posted against the post of Director Research which post was occupied by the appellant. Dissatisfied with the above mentioned notification, he preferred a review petition on 25.01.2020 to respondent #.1 which was not attended to so he approached this Tribunal through the instant appeal wherein he sought the cancellation of impugned notification.

3. Written reply/comments were submitted by the respondents jointly.

4. Arguments heard and record perused.

5. Inayat Ullah Khan Advocate, learned counsel for appellant contended that the impugned transfer/posting notification is violative of the mandatory clauses of posting and transfer policy of the Provincial Government. Further contended that appellant has been transferred prematurely and that frequent transfer of respondent #.5 by the other respondents is a clear violation of rules & regulation and lastly he submitted that the authority failed to specify justified reasons which prompted the premature transfer of the appellant.

Reliance was placed on Secretary Education N.W.F.P Peshawar Versus

 15/1/20

Mustamir Khan reported in 2005 SCMR 17, Zahid Akhter Versus Government of Punjab reported in PLD 1995 Supreme Court 530.

6. Conversely, learned Deputy District Attorney appeared on behalf of respondents and strongly opposed the contention of learned counsel for appellant and fully supported the impugned notification. He argued that the appellant was transferred under a general transfer/posting policy and the order was passed in the best interest of public. That neither the appellant was victimized nor there was any malafide on the part of respondents. He argued that there was neither any political nor other ulterior motives behind the transfer/posting of the appellant. Reliance was placed on Muhammad Alam Jan Versus Government of N.W.F.P reported in 2005 SCMR 442, Dr. Javid Versus Director General Health Services reported in 2000 SCMR 141 and Mushtaq Ahmad Versus Ch. Saeed Ahmad reported in 1996 SCMR 1649.

7. Perusal of record would reveal that appellant was transferred after promotion vide notification dated 11.10.2018 from the post of SRO Pesticide Residue (BPS-18) Directorate Soil & Plant Nutrition, ARI, Tarnab, Peshawar to the post of Director Agriculture Research Ex-FATA (BPS-19) ARI, Tarnab, Peshwar, and he was posted on the position which was vacated by respondent #.5, (Mr. Fazal Wahab) who was transferred from the post of Director Agriculture to SRO (BPS-18) ARS Buner, but he was reluctant to relinquish the charge of the post of Director and in this regard, the appellant properly informed the Director General Agriculture Research Government of Khyber Pakhtunkhwa. Another letter #.1422-23 dated 06.11.2018 from Director General to the Section Officer (Estt.) Government of Khyber Pakhtunkhwa Agriculture, Livestock & Cooperative Department Peshawar is available on

file vide which strong disciplinary action was requested to be taken against the present respondent #.5 who was reluctant to relinquish the charge of the post of Director. The respondent #.5 relinquished the charge of the post of Director Agriculture on 22.11.2018. Again, it was on 24th January, 2020 when transfer/posting order in respect of appellant and respondent #.5 was made vide which appellant was transferred from the post of Director Agriculture to the post of Principal Research Officer and vice versa which order is now impugned before this Tribunal.

8. We are conscious of the fact that transfer of any Government servant can be made by the competent authority in the exigency of service and public interest. No Government servant has a legal right to remain posted at a particular place but where transfer order is malafide and for extraneous consideration to accommodate some blue eyed chap is justiciable. In such an eventuality, the matter would squarely fall within jurisdictional domain of Service Tribunal. In the instant case, the appellant was transferred to the post of Director Agriculture Research vide order dated 11.10.2018 and just after 15 months, he was once again transferred to the post of Principal Research Officer. When ordinary tenure for a posting had been specified in the law or rules made there under, such tenure must be respected and could not be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable. Summary for Chief Minister regarding posting/transfer is available on file wherein justification in respect of appellant was given as:

"The required tenure of the officer has not yet been completed.

However, the officer concerned is not in better position to

perform his responsibilities well due to his ill health as well as huge responsibilities of new merged districts."

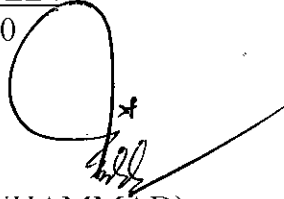
9. As per record, the appellant having superior qualification viz a viz, the qualification of respondent #.5. No medical report from the Standing Medical Board has been annexed by the respondents with reply to justify allegation of physical incapability. He is a Ph.D Scholar which fact is not denied. He was working on various projects, details whereof have been clearly mentioned in Para-08 of memo of appeal. It is pertinent to mention here that operation of impugned transfer/posting order was suspended by this Tribunal subject to handing over of the Government vehicles by the appellant to higher authority/Director General. It is on record that the vehicles were returned by appellant and in this record, proper handing over and taking over was made and no objection was raised but even then, the appellant was not allowed to resume his duty. It is also on record that the appellant did not relinquish the charge till today but even then, the respondent #.5 tried to assume the charge despite the fact that post was not vacated as charge had not been relinquished by appellant. His pay was stopped and he was not allowed to carry on his duties. It is also on record that the respondent #.5 was transferred from different posts from October 2018 till the impugned notification which shows frequent transfers of respondent #.5.

10. In view of the above, the instant appeal is accepted and the impugned notification in respect of transfer/posting of appellant stands set aside. We, therefore, expect that the guidelines mentioned in the policy directives of the Government will be kept in view by all concerned, while dealing with the

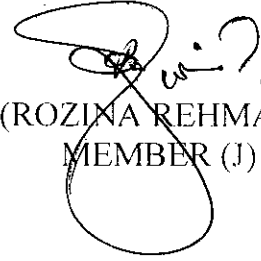
transfers of Government servants. No order as to costs. File be consigned to
the record room.

ANNOUNCED.

15.07.2020



(MIAN MUHAMMAD)
MEMBER (E)



(ROZINA REHMAN)
MEMBER (J)

15.07.2020


Appellant in person present.

Mr. Muhammad Jan learned Deputy District Attorney for official respondents present.

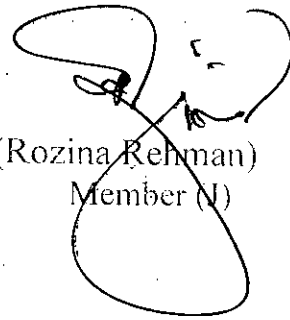
Vide detailed judgment of today of this Tribunal placed on file, the instant appeal is accepted and the impugned notification in respect of transfer/posting of appellant stands set aside. We, therefore, expect that the guidelines mentioned in the policy directives of the Government will be kept in view by all concerned, while dealing with the transfers of Government servants. No order as to costs. File be consigned to the record room.

ANNOUNCED.

15.07.2020



(Mian Muhammad)
Member (E)



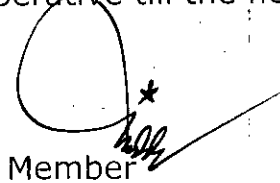
(Rozina Rehman)
Member (J)

22.06.2020

Learned counsel for the appellant and Mr. Riaz Paindakhel, learned Asst. AG alongwith Mr. Touheed Iqbal, Assistant Director for the official respondents No.1 to 4 and counsel for private respondent No.5 present.

The respondents had submitted reply of C.O.C application which is placed on record. The official respondents have provided copy of summary as order on the last date of hearing the same is also made part of the record.

Adjourned to 29.06.2020 for arguments before D.B. The restraint order issued on 05.05.2020 shall remain operative till the next date.


Member


Chairman

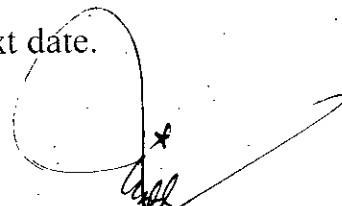
29.06.2020

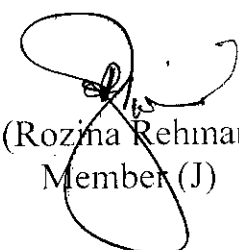
Appellant alongwith counsel present.

Mr. Muhammad Jan learned Deputy District Attorney alongwith Toheed Iqbal Assistant Director and Ilyas Khan Statistician for official respondents present. Learned counsel for private respondent No.5 present.

Arguments heard. To come up for order on 15.07.2020 before D.B.

The restraint order issued on 05.05.2020 shall remain operative till the next date.



(Mian Muhammad)
Member(E)


(Rozina Rehman)
Member (J)

15.06.2020

Learned counsel for the appellant present. Mr. Riaz Khan Paindakheil learned Assistant Advocate General alongwith Toheed Iqbal Assistant Director for official respondents present. Private respondent alongwith his counsel present. Appellant submitted rejoinder, the same is placed on file. Appellant has also submitted application to summon the summary, which was prepared by the official respondents in case of the transfer of the appellant to the competent authority. Representative of official respondents is directed to furnish/submit copy of the same on the next date. Learned counsel for the appellant requested for adjournment. Adjourned. He is directed to argue the case positively on the next date fixed as 22.06.2020, before D.B. Restraint order already issued, shall continue till the next date fixed.


(Rozina Rehman)
Member


(M.Amin Khan Kundi)
Member

18.05.2020

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Muhammad Ilyas, Senior Statistician Officer for the respondents present. Representative of the department submitted written reply on behalf of respondents No. 1 to 5 which is placed on record. To come up for rejoinder, if any, and arguments on 09.06.2020 before D.B. The restraint order passed on 05.05.2020 shall continue till the next date.


(M. Amin Khan Kundi)
Member

09.06.2020

Clerk to counsel for the appellant present. Mr. Kabirullah Khattak, Additional AG alongwith M/S Toheed Iqbal, Assistant Director and Muhammad Ilyas, Senior Statistician Officer for official respondents No. 1 to 4 present. Clerk to counsel for the appellant submitted an application for adjournment on the ground that the aunt of learned counsel for the appellant has been died. Application is placed on record. To come up for rejoinder, if any, and arguments on 15.06.2020 before D.B. The restraint order passed on 05.05.2020 shall continue till the next date.


(Mian Muhammad)
Member


(M. Amin Khan Kundi)
Member

05.05.2020

Learned counsel for the appellant present. Preliminary arguments heard.

The appellant has filed the present service appeal being aggrieved against his transfer from the post of Director Agriculture Research (Merged Area), ARI, Tarnab Peshawar to the post of Principal Research Officer (Food Technology) Agri Institute Tarnab, Peshawar and posting of Mr. Fazli Wahab (Private respondent No.5) as Director Agriculture Research (Merged Area), ARI, Tarnab Peshawar, vide order dated 24.01.2020.

Both the posts of Director Agriculture Research (Merged Area) and Principal Research Officer (Food Technology) mentioned above are located at one and the same station. Learned counsel for the appellant however contended that the impugned transfer/posting order is premature, politically motivated and was issued just to accommodate the blue eyed person to the post of Director Agriculture Research (Merged Area), ARI, Tarnab Peshawar.

In view of the submissions made by the learned counsel for the appellant, the present service appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to the respondents for written reply/comments.

Application for interim relief is also annexed with the memo of service appeal. Notice of the same be also issued to the respondents for the date fixed.

Till the next date fixed, the operation of the impugned transfer/posting order shall remain suspended, subject to the condition of handing over of Government Vehicles (particulars described in memo of Explanation No.4912-13/Estt/DGAR dated

5.5.2020
Appellant Deposited
Security & Process Fee

Form- A


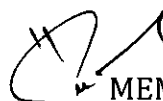
FORM OF ORDER SHEET

Court of _____

Case No. -

3727

/2020

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	27/04/2020	<p>The appeal of Dr. Barkat Ali Khan presented today i.e 27.04.2020 by Mr. Inayatullah Khan, Advocate, may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR 27/4/2020</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up on <u>05-05-2020</u>.</p> <p style="text-align: right;"> MEMBER</p>
2-		

06.04.2020) by the appellant to the higher authority/Director General Agricultural Research Khyber Pakhtunkhwa Peshawar for safe parking/safe custody in accordance with law, in view of its reported misuse, by private persons, as mentioned in the memo of Explanation mentioned above.

To come up for written reply/comments on 18.05.2020 before S.B.


Member

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK, PESHAWAR.

3727
S.A.No. ____/2020

Dr. Barkat Ali Khan Appellant

Versus

Chief Minister through Chief Secretary Khyber Pakhtunkhwa
Peshawar others..... Respondents

I N D E X

S.No.	Description of documents.	Annexure	Pages.
1.	Grounds of appeal.		1-10
2.	Application for suspension with affidavit		11-13
3.	Addresses of the parties.		14
4.	Copy of service Appeal and Registrar order	A and A/1	15-27
5.	Copy of Order dated 11.10.2018	A/2	28-29
6.	Copy of letter dated 25.10.2018 addressed to DG Agriculture	B	30
7.	Copy of Memo dated 06.11.2018	C	31
8.	Copy of memo dated 19.11.2018	D	32
9.	Copy of letter dated 09.11.2018	E	33-34
10.	Copy of certificate of Transfer of Charge	F	35
11.	Copy of notification dated 24.01.2020	G	36-37
12.	Copy of notification dated 28.05.2019	H	38-41
13.	copy of notification dated 04.10.2019 and notification dated 18.10.2018	I	42-44
14.	Copy of Statement showing details of various project	J	45-46
15.	Copy of explanation letter dated 06.04.2020 and its reply	J/1 & J/2	47-48
16.	Copy of judgment dated 16.01.2020	K	49-53
17.	Copy of Posting & Transfer Policy	L	54-57
18.	Copy of review petition alongwith notice receipt		58-64
19.	Wakalatnama.		65

Appellant

through


Inayat Ullah Khan

Advocate High Court

LL.M (U.K)

Cell: 0333-9227736

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK, PESHAWAR.Service Appeal No. 3727/2020Khyber Pakhtunkhwa
Service TribunalDiary No. 3143Dated 27-4-2020**Dr. Barkat Ali Khan** son of Akbar Ali Khan

R/o Agriculture Research Institute Tarnab, Peshawar

(Director (BS-19) Agriculture, Research (Merged Area) ARI,

Tarnab, Peshawar Appellant

Versus

- 1) Chief Minister through Chief Secretary Khyber Pakhtunkhwa Peshawar.
- 2) Chief Secretary, Government of Khyber Pakhtunkhwa Peshawar.
- 3) Secretary, Agriculture Livestock & Co-operative Department, Government of Khyber Pakhtunkhwa Peshawar.
- 4) Director General, Agriculture Research, Government of Khyber Pakhtunkhwa Peshawar.
- 5) Fazli Wahab, Director Agriculture Research (Merged Areas), ARI Tarnab, Peshawar.

..... Respondents

Filed to-day**Registrar**

27/4/2020

Appeal u/s 4 of the K.P Service Tribunal Act, 1974 r/w Clause i), ii), iv), xiv) of Posting/ Transfer Policy of the Provincial Government against the impugned Transfer Order/Notification Reference No.SOE (AD)3(3)2/2019/RW: dated 24.01.2020 whereby the appellant was prematurely transferred from the post of Director Agriculture, Research (Merged Areas) ARI, Tarnab, Peshawar to Principle

Research Officer Food Technology, Agriculture Institute, Tarnab Peshawar, against which review petition dated:25.01.2020 was filed before respondent No.1 i.e. Chief Minister being the (Competent Authority) Khyber Pakhtunkwa Peshawar but the same has not been responded despite lapse of statutory period of 90 days.

PRAYER:

On acceptance of this Service appeal the impugned Transfer Order/Notification Reference No.SOE (AD)3(3)2/2019/RW: dated 24.01.2020 may kindly be set-aside on the ground that the appellant has not completed his normal tenure as Director Agriculture Research (Merged Areas) ARI Tarnab, Peshawar in terms of the various clauses of Posting/ Transfer Policy of the Provincial Government referred above in the heading of this appeal and in the light of reported judgments 1997 TD (Service) pg 56, 2005 SCMR Page 17, PLD 1995 Supreme Court 530, 2009 PLC (CS) 891, 2003 SCMR 325, PLJ 2009 Lahore 983.

Respectfully Sheweth;

Brief facts giving rise to the instant appeal are as under:-

- 1) That the appellant earlier approached this Hon'ble Service Tribunal vide Diary No.925 dated 31.01.2020 but the same

was returned on the ground that a statutory period of 90 days has not been lapsed therefore the instant appeal is not maintainable U/S-4 the Khyber Pakhtunkhwa Service Tribunal Act 1974.

(Copy of earlier service appeal is enclosed alongwith order of the Registrar as Annexure A and A/1).

- 2) That the appellant was promoted vide notification dated 11.10.2018 from the post of SRO, Pesticide Residue, (BS-18), Directorate Soil & Plant Nutrition, ARI Tarnab, Peshawar to the post of Director Agriculture Research Ex-FATA (BS-19) ARI Tarnab, Peshawar and as such he was posted on the position which was vacated by respondent No.5

(Copy of Order dated 11.10.2018 is attached as Annexure-A/2 at Page No 28 - 29).

- 3) That the appellant moved a letter dated 25.10.2018 to Director General, Agriculture Research, Khyber Pakhtunkhwa Peshawar with a request to direct respondent No.5 to immediately handover charge of the post against which the appellant was transferred as he was reluctant to relinquish his charge.

It is pertinent to mention that D.G Agriculture Research Ex-FATA vide memo dated 06.11.2018 self explanatory on the subject of Posting & Transfer, referred the issue to the Section Officer (Estt) Govt of Khyber Pakhtunkhwa, Agric. Livestock & Cooperative Department Peshawar, that Mr. Fazli Wahab did not assume the charge of Senior Research Officer, at Agriculture Research Station, Buner.

(Copy of letter dated 25.10.2018 addressed to DG Agriculture is attached as Annexure-B and Memo dated

06.11.2018 is attached as Annexure C at Page No. 31).

- 4) That likewise in consequence of the posting order as referred to in Para No.1, the respondent No.5 was resorting to delaying tactics to hand over charge of the post of Director Agriculture Research (Merged Areas), hence the appellant wrote another memo/letter dated 19.11.2018 to respondent No.3 with a request to direct respondent No.5 to immediately handover the charge of the above referred post.

It is important to mention that respondent No.5 after a hectic effort was directed by respondent No.3 to immediately relieve/ relinquish the charge of the post of Director Agriculture Research, Ex-FATA otherwise this department would have no other option but to initiate disciplinary action against him.

(Copy of memo dated 19.11.2018 is attached as Annex-D and letter dated 09.11.2018 is attached as Annexure-E at Page No. 32-34).

- 5) That finally respondent No.5 namely Fazli Wahab relinquish the charge of the post of Director Agriculture Research Ex-FATA, ARI, Tarnab, Peshawar on 22.11.2018.

(Copy of certificate of Transfer of Charge is attached as Annexure F at Page No. 35).

- 6) That the appellant Dr. Barkat Ali, Director (BS-19) Agriculture Research (Merged Areas) AIR, Tarnab, Peshawar was prematurely transferred to the post of Principle Research Officer, Food Technology, Agriculture Institute Tarnab Peshawar before completion of his tenure vide order dated 24.01.2020, while respondent No.5 namely Fazli Wahab was posted against the Post of the Appellant.

(Copy of impugned notification dated 24.01.2020 is attached as Annexure-G at Page No 36 - 37).

- 7) That prior to the impugned transfer order/ notification dated 24.01.2020, the respondent No.5 was posted earlier in District Buner, wherefrom he was transferred to Peshawar in less than a month time. Respondent No.5 was again transferred/ posted vide notification dated 28.05.2019 from SRO (BS-18) Agriculture Research Ex-FATA ARI Tarnab Peshawar to the post of Director Outreach (BS-19) Agriculture Research Khyber Pakhtunkhwa Peshawar.

It is pertinent to mention that respondent No.5 namely Fazli Wahab was again transferred/ posted vide notification dated 04.10.2019 from the post of Director Outreach (BS-19) Agriculture Research Khyber Pakhtunkhwa Peshawar to PRO (Food Technology) (BS-19) ARI, Tarnab Peshawar.

The respondent No.5 was again posted/transferred vide impugned transfer/ posting notification dated 24.01.2020, whereby he was transferred from the post of Principle Research Officer (Food Technology) Agriculture Institute Tarnab Peshawar to the post of appellant pre-maturely as Director Agriculture Research (Merged Areas) ARI Tarnab Peshawar. Impugned transfer order already mentioned in Para No.5 above.

It is pertinent to mention that the appellant is a Ph.D scholar and the most suitable, relevant and competent person to hold the post of **Director Agriculture Research** (Merged Areas) ARI Tarnab Peshawar while on the other hand the respondent No. 5 having no such qualification to claim suitability for the said position.

(Copy of notification dated 28.05.2019 is attached as Annexure-H and copy of notification dated

04.10.2019 attached as Annexure I at Page No 38-44).

- 8) That the appellant as Director Agriculture Research (Merged Areas) Agriculture Research Institute Tarnab Peshawar was working on various projects initiated by him, which would adversely be affected because of his pre-mature transfer from the post. The details of the project are mentioned for the convenience of this Hon'ble Tribunal.

Directorate of Agriculture Research (Merged Areas)
Agriculture Research Institute Tarnab Peshawar.
ADP 2019-20

پراجیکٹ کا نام	مختص رقم	جاری شدہ رقم	خرچ شدہ رقم	دیے گئے سپلائی آرڈر
باجوڑ اور جنوبی وزیرستان میں زمین اور پانی کی ٹیسٹنگ لیبارٹری کا قیام	4 کروڑ 27 لاکھ	1 کروڑ 9 لاکھ	45 لاکھ	2 کروڑ 5 لاکھ
سبزیوں اور غلے دار اجناس پر تحقیق	56 لاکھ	14 لاکھ	10 لاکھ	35 لاکھ
ضم شدہ اضلاع میں زرعی تحقیق کی سہولیات کا فروغ اور میر جمال فارم کی بحالی کا منصوبہ	2 کروڑ 54 لاکھ	64 لاکھ	53 لاکھ	16 لاکھ
ضم شدہ اضلاع میں پھلوں کی نئی اقسام کے باغات کی کاشت	89 لاکھ	22 لاکھ	2 لاکھ	193 لاکھ
ضم اضلاع میں تصدیق شدہ گندم بیج پیدا کرنے کے نظام کا تعارف	38 لاکھ	10 لاکھ	24 لاکھ	

AIP 2019-20

پراجیکٹ کا نام	مختص رقم	جاری شدہ رقم	خرچ شدہ رقم	دیے گئے سپلائی آرڈر
کرم اور اورکزئی میں ٹشو کلچر کے ذریعے جراثیم سے پاک آلو کا تخم پیدا کرنے کا منصوبہ	18 کروڑ	9 کروڑ	72 لاکھ	7 کروڑ

(Copy of statement showing details of various projects is attached as Annexure-1 at Page No. 12-13)

9) That the appellant preferred review petition dated 25.01.2020 (a respondent No.1 i.e. Chief Minister being the competent final authority but no response has been provided despite lapse of statutory period of 90 days which would adversely affect the on-going projects initiated by him, details of which already mentioned in Para No.7.

10) That vide explanation letter No.4912-13ESTVDGAR dated 08.04.2020 was served upon the appellant by Director General Agriculture Research Peshawar seeking implementation of the impugned Transfer Notification dated 24.01.2020 otherwise disciplinary action would be initiated against him.

(Copy of explanation letter dated 08.04.2020 and its reply are attached as Annexure 11 and 12 at Page No. 14-15)

Being dissatisfied with the impugned Transfer Order Notification dated 24.01.2020, the appellant having no other remedy but constrained to approach this Hon'ble Service Tribunal for redressal of his grievance on the following amongst other grounds.

GROUND 8 FOR APPEAL:

a) That the impugned transfer posting notification dated 24.01.2020 is violative of the mandatory clauses of Posting & Transfer Policy of the Provincial Government and various reported judgments of this Hon'ble Tribunal and the Supreme Court of Pakistan as mentioned in the heading of this appeal.

- b) That this Hon'ble tribunal has already declared in a recent judgment in case titled Mst. Nilofar Kamran..VS.. The Chief Secretary Khyber Pakhtunkhwa in Appeal No.1490/2019 decided on 16.01.2020, wherein it was held that;

“ In addition to this the appellant was prematurely transferred in sheer violation of Posting/ Transfer Policy notified by the Provincial Government”.

It is pertinent to mention that this Hon'ble Tribunal further observed in an authoritative manner;

“Another funny thing that would expose high handedness, favouritism and mis-use of authority is notification dated 03.05.2019 and 17.07.2019”

(Copy of judgment dated 16.01.2020 is attached as Annexure-K at page No. 49 - 53).

- c) That the respondent No.5 frequent posting/ transfer suggest that he is securing desired postings by exerting political influence over the authorities which is a serious misconduct under E &D Rules 2011 which cannot be ignored altogether.
- d) That the pre-mature transfer of the appellant would adversely affect all the ongoing projects as referred to, in Para No.7 initiated by him.

It is pertinent to mention that the authority **failed to specify justified reasons which prompted the premature transfer of the appellant from the post of Director (BS-19) Agriculture Research (Merged Areas) ARI, Tarnab Peshawar to the post of Principle Research Officer (Food Technology) Agriculture Institute Tarnab Peshawar.**

(Copy of Posting & Transfer Policy is attached as Annexure-L at page No. 54-57).

- e) That according to Para-5 of the Posting & Transfer Policy of the Government which states that;

“All the concerned are requested to ensure that tenures of the concerned officers/ officials are invariably mentioned in the summaries submitted to the competent authorities for Posting/ Transfer”

Despite clear cut posting and transfer policy of the government, the appellant was transferred in sheer violation of the above policy which is the cause of bad administration in the departments create despondency amongst the officers on one hand while adversely affect the ongoing developmental projects on the other hand.

- f) That Chief Minister being the competent authority in the case of appellant and no appellate authority is existed in law above the Chief Minister therefore review petition was filed against the impugned order in accordance with law.
- g) That additional ground will be raised at the time of arguments with the kind permission of this Hon'ble Tribunal at the time of hearing.

Keep in view what has been stated above, it is therefore, earnestly prayed from this Hon'ble Tribunal to accept this Service appeal and the impugned Transfer Order/ Notification Reference No.SOE (AD)3(3)2/2019/RW: dated 24.01.2020 may kindly be set-aside on the ground that the appellant has not completed his normal tenure guaranteed to him under the Posting and

Transfer Policy of the Provincial Government, as Director Agriculture Research (Merged Areas) ARI Tarnab, Peshawar in the light of reported judgments 1997 TD (Service) pg 56, 2005 SCMR Page 17, PLD 1995 Supreme Court 530, 2009 PLC (CS) 891, 2003 SCMR 325, PLJ 2009 Lahore 983.

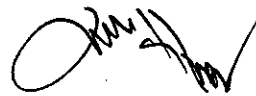
It is further requested that the official respondents No.1 to 4 may kindly be restrained from taking any adverse action against the appellant till final disposal of instant appeal.

Any other relief, to whom the appellant found entitle, may also be granted.

Date:25.04.2020


Appellant

Through



Inayat Ullah Khan
Advocate High Court
LL. M (U.K)

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK, PESHAWAR.

C.M No. _____/2020

IN

S.A.No. ____/2020

Dr. Barkat Ali Khan Appellant

Versus

Chief Minister through Chief Secretary Khyber Pakhtunkhwa
Peshawar others..... Respondents

**APPLICATION FOR SUSPENSION OF
impugned Transfer Order/Notification
Reference No.SOE (AD)3(3)2/2019/RW:
dated 24.01.2020 TILL THE FINAL
DISPOSAL OF INSTANT SERVICE APPEAL
WITH FURTHER PRAYER NOT TO
TRANSFER THE APPELLANT AGAIN
DURING PENDENCY OF ACCOMPANYING
APPEAL.**

**It is also requested that official
respondents No.1 to 4 may kindly be
restrained from taking any adverse
action against the appellant till the final
disposal of the instant appeal.**

Respectfully Sheweth:-

1. That the accompanying service appeal has been filed before this Honorable Service Tribunal against the impugned transfer order dated 24.01.2020, hence seeking early fixation of the same.
2. That the accompanying service appeal may kindly be treated as part and parcel of this application.

3. That through the instant Misc. application, the appellant is seeking suspension of the impugned Transfer Order/Notification Reference No.SOE (AD)3(3)2/2019/RW: dated 24.01.2020 till the final decision of the main service appeal in the best interest of justice, fair play and equity.
4. That balance of convenience also lies in favour of appellant having a good prima facie case in his favour.

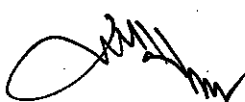
It is therefore humbly prayed that on acceptance of this application the impugned Transfer Order/Notification Reference No.SOE (AD)3(3)2/2019/RW: dated 24.01.2020 be suspended till the final disposal of the accompanying service appeal with further direction to the respondents not to transfer the appellant again during pendency of the service appeal.

It is further requested to restrain the official respondent No.1 to 4 not to take any adverse action against the appellant till final adjudication of the appeal.

Date:25.04.2020


Appellant

Through


Inayat Ullah Khan
Advocate High Court
LL. M (U.K)

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK, PESHAWAR.

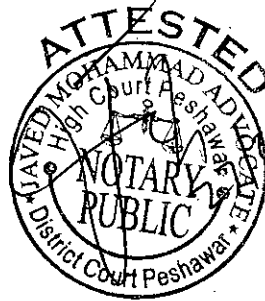
S.A.No. ____/2020

Dr. Barkat Ali Khan Appellant

Versus

Chief Minister through Chief Secretary Khyber Pakhtunkhwa
Peshawar others..... Respondents**AFFIDAVIT**

I, **Dr. Barkat Ali Khan (Ph.D)** son of Akbar Ali Khan R/o Agriculture Research Institute Tarnab, Peshawar (Director (BS-19) Agriculture, Research (Merged Area) ARI, Tarnab, Peshawar do hereby affirm and declare on oath that the contents of the **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.


Deponent


BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK, PESHAWAR.

S.A.No. ____/2020

Dr. Barkat Ali Khan Appellant

Versus

Chief Minister through Chief Secretary Khyber Pakhtunkhwa
Peshawar others..... Respondents

ADDRESSES OF THE PARTIES

APPELLANT:

Dr. Barkat Ali Khan son of Akbar Ali Khan
R/o Agriculture Research Institute Tarnab, Peshawar
(Director (BS-19) Agriculture, Research (Merged Area) ARI,
Tarnab, Peshawar

RESPONDENTS:

- 1) Chief Minister through Chief Secretary Khyber Pakhtunkhwa Peshawar.
- 2) Chief Secretary, Government of Khyber Pakhtunkhwa Peshawar.
- 3) Secretary, Agriculture Livestock & Co-operative Department, Government of Khyber Pakhtunkhwa Peshawar.
- 4) Director General, Agriculture Research, Government of Khyber Pakhtunkhwa Peshawar.
- 5) Fazli Wahab, Director Agriculture Research (Merged Area), ARI Tarnab, Peshawar.


Appellant

through



Inayat Ullah Khan
Advocate High Court
LL.M (U.K)

Annexure "A"

(15)

1

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK, PESHAWAR.

Service Appeal No. _____/2020

Khyber Pakhtunkhwa
Service Tribunal

Entry No. 925

Dated 31/01/2020

Dr. Barkat Ali Khan son of Akbar Ali Khan

R/o Agriculture Research Institute Tarnab, Peshawar

(Director (BS-19) Agriculture, Research (Merged Area) ARI,

Tarnab, Peshawar Appellant

Versus

- 1) Chief Minister through Chief Secretary Khyber Pakhtunkhwa Peshawar.
- 2) Chief Secretary, Government of Khyber Pakhtunkhwa Peshawar.
- 3) Secretary, Agriculture Livestock & Co-operative Department, Government of Khyber Pakhtunkhwa Peshawar.
- 4) Director General, Agriculture Research, Government of Khyber Pakhtunkhwa Peshawar.
- 5) Fazli Wahab, Director Agriculture Research (Merged Areas), ARI Tarnab, Peshawar.

..... Respondents

Filed to day
31/1/2020
Registrar

Appeal u/s 4 of the K.P Service Tribunal Act, 1974 r/w Clause i), ii), iv), xiv) of Posting/ Transfer Policy of the Provincial Government against the impugned Transfer Order/Notification Reference No.SOE (AD)3(3)2/2019/RW: dated 24.01.2020 whereby the appellant was prematurely transferred from the post of Director Agriculture, Research (Merged Areas) ARI, Tarnab, Peshawar to Principle

Research Officer Food Technology,
Agriculture Institute, Tarnab Peshawar,
against which review petition
dated:25.01.2020 was filed before
respondent No.1 i.e. Chief Minister
Khyber Pakhtunkwa Peshawar but the
same has not been responded till date.

Note:

That the impugned order dated 24.01.2020 was passed with the approval of respondent No.1 by respondent No.3 i.e. Secretary Agriculture Livestock therefore the original order is final order against which this service appeal is maintainable before this Hon'ble Tribunal on the ground that Chief Minister being the original/final authority in the case of appellant.

PRAYER:

On acceptance of this Service appeal the impugned Transfer Order/Notification Reference No.SOE (AD)3(3)2/2019/RW: dated 24.01.2020 may kindly be set-aside on the ground that the appellant has not completed his tenure as Director Agriculture Research (Merged Areas) ARI Tarnab, Peshawar in terms of the various clauses of Posting/Transfer Policy of the Provincial Government referred above in the heading of this appeal and in the light of reported judgments 1997 TD (Service) pg 56, 2005 SCMR Page 17, PLD 1995 Supreme Court 530, 2009 PLC (CS) 891, 2003 SCMR 325, PLJ 2009 Lahore 983.

Respectfully Sheweth;

Brief facts giving rise to the instant appeal are as under:-

- 1) That the appellant was promoted vide notification dated 11.10.2018 from the post of SRO, Pesticide Residue, (BS-18), Directorate Soil & Plant Nutrition, ARI Tarnab, Peshawar to the post of Director Agriculture Research Ex-FATA (BS-19) ARI Tarnab, Peshawar and he was posted on the position which was vacated by respondent No.5

(Copy of Order dated 11.10.2018 is attached as Annexure-A at Page No 14-15).

- 2) That the appellant moved a letter dated 25.10.2018 to Director General, Agriculture Research, Khyber Pakhtunkhwa Peshawar with a request to direct respondent No.5 to immediately handover charge of the post against which the appellant was transferred as he was reluctant to relinquish his charge.

It is pertinent to mention that D.G Agriculture Research Ex-FATA vide memo dated 06.11.2018 self explanatory on the subject of Posting & Transfer Director Agriculture Research Ex-FATA, referred the issue to the Section Officer (Estt) Govt of Khyber Pakhtunkhwa, Agric. Livestock & Cooperative Department Peshawar, that Mr. Fazli Wahab did not assume the charge of Senior Research Officer, at Agriculture Research Station, Buner.

(Copy of letter dated 25.10.2018 addressed to DG Agriculture is attached as Annexure-B and Memo dated 06.11.2018 is attached as Annexure C at Page No 16-17).

- 3) That likewise in consequence of the posting order as referred to in Para No.1, the respondent No.5 was resorting to delaying tactics to hand over charge of the post of Director Agriculture Research (Merged Areas), hence the appellant wrote another memo dated 19.11.2018 to respondent No.3 with a request to direct respondent No.5 to immediately handover the charge of the above referred post.

It is important to mention that respondent No.5 after a hectic effort was directed by respondent No.3 to immediately relieve/ relinquish the charge of the post of Director Agriculture Research, Ex-FATA otherwise this department would have no other option but to initiate disciplinary action against him.

(Copy of memo dated 19.11.2018 is attached as Annex-D and letter dated 09.11.2018 is attached as Annexure-E at Page No. 18-20).

- 4) That finally respondent No.5 namely Fazli Wahab relinquish the charge of the post of Director Agriculture Research Ex-FATA, ARI, Tarnab, Peshawar on 22.11.2018.

(Copy of certificate of Transfer of Charge is attached as Annexure F at Page No 21).

- 5) That the appellant Dr. Barkat Ali, Director (BS-19) Agriculture Research (Merged Areas) AIR, Tarnab, Peshawar was transferred to the post of Principle Research Officer, Food Technology, Agriculture Institute Tarnab Peshawar prematurely before completion of his tenure vide order dated 24.01.2020, while respondent No.5 namely Fazli Wahab was posted against the Post of the Appellant.

(Copy of notification dated 24.01.2020 is attached as Annexure-G at Page No 22-23).

- 6) That prior to the impugned transfer order/ notification dated 24.01.2020, the respondent No.5 was posted earlier in District Buner, wherefrom he was transferred to Peshawar in less than a month time. Respondent No.5 was again transferred/ posted vide notification dated 28.05.2019 from SRO (BS-18) Agriculture Research Ex-FATA ARI Tarnab Peshawar to the post of Director Outreach (BS-19) Agriculture Research Khyber Pakhtunkhwa Peshawar.

It is pertinent to mention that respondent No.5 namely Fazli Wahab was again transferred/ posted vide notification dated 04.10.2019 from the post of Director Outreach (BS-19) Agriculture Research Khyber Pakhtunkhwa Peshawar to PRO (Food Technology) (BS-19) ARI, Tarnab Peshawar.

The respondent No.5 was again posted/transferred vide impugned transfer/ posting notification dated 24.01.2020, whereby he was transferred from the post of Principle Research Officer (Food Technology) Agriculture Institute Tarnab Peshawar to the post of appellant pre-maturely as Director Agriculture Research (Merged Areas) ARI Tarnab Peshawar. Impugned transfer order already mentioned in Para No.5 above.

(Copy of notification dated 28.05.2019 is attached as Annexure-H and copy of notification dated 04.10.2019 attached as Annexure I at Page No. 24-37).

- 7) That the appellant while working as Director Agriculture Research (Merged Areas) Agriculture Research Institute Tarnab Peshawar was working on various projects initiated by him, which would be adversely effected because of the pre-mature transfer of the appellant from the post. The details of

the project are mentioned for the convenience of this Hon'ble Tribunal.

**Directorate of Agriculture Research (Merged Areas)
Agriculture Research Institute Tarnab Peshawar.
ADP 2019-20**

پراجیکٹ کا نام	مختص رقم	جاری شدہ رقم	خرچ شدہ رقم	دیے گئے سپلائی آرڈر
باجوڑ اور جنوبی وزیرستان میں زمین اور پانی کی ٹیسٹنگ لیبارٹری کا قیام	4 کروڑ 27 لاکھ	1 کروڑ 9 لاکھ	45 لاکھ	2 کروڑ 5 لاکھ
سبزیوں اور غلے دار اجناس پر تحقیق	56 لاکھ	14 لاکھ	10 لاکھ	35 لاکھ
ضم شدہ اضلاع میں زرعی تحقیق کی سہولیات کا فروغ اور میر جمال فارم کی بحالی کا منصوبہ	2 کروڑ 54 لاکھ	64 لاکھ	53 لاکھ	16 لاکھ
ضم شدہ اضلاع میں پھلوں کی نئی اقسام کے باغات کی کاشت	89 لاکھ	22 لاکھ	2 لاکھ	93 لاکھ
ضم اضلاع میں تصدیق شدہ گندم بیج پیدا کرنے کے نظام کا تعارف	38 لاکھ	10 لاکھ	24 لاکھ	

AIP 2019-20

پراجیکٹ کا نام	مختص رقم	جاری شدہ رقم	خرچ شدہ رقم	دیے گئے سپلائی آرڈر
کرم اور اورکزئی میں نشوونما کے ذریعے جراثیم سے پاک آلو کا تخم پیدا کرنے کا منصوبہ	18 کروڑ	9 کروڑ	72 لاکھ	7 کروڑ

(Copy of Statement showing details of various project is attached as Annexure-J at Page No 31 - 32).

- 8) That the appellant preferred review petition dated 25.01.2020 to respondent No.1 i.e. Chief Minister being the competent/ final authority but till date no response has been provided in terms of the pre-mature transfer of the appellant which would adversely effect the on-going projects initiated by him, details of which already mentioned in Para No.7, hence the appellant having no other remedy but to approach this Hon'ble Tribunal for redressal of his grievance on the following amongst other grounds.

GROUND FOR APPEAL:

- a) That the impugned transfer/ posting notification dated 24.01.2020 is violative of the mandatory clauses of Posting & Transfer Policy of the Provincial Government and various reported judgments of this Hon'ble Tribunal and of the August Supreme Court of Pakistan as mentioned in the heading of this appeal.
- b) That this Hon'ble tribunal has already declared in a recent judgment in case titled Mst. Nilofar Kamran..VS.. The Chief Secretary Khyber Pakhtunkhwa in Appeal No.1490/2019 decided on 16.01.2020, wherein it was held that;

“ In addition to this the appellant was prematurely transferred in sheer violation of Posting/ Transfer Policy notified by the Provincial Government”.

It is pertinent to mention that this Hon'ble Tribunal further observed in an authoritative manner;

“Another funny thing that would expose high handedness, favouritism and mis-use of authority is notification dated 03.05.2019 and 17.07.2019”

(Copy of judgment dated 16.01.2020 is attached as Annexure-K at page No. 33-37).

- c) That the respondent No.5 frequent posting/ transfer suggest that he is securing desired posting by exerting political influence over the authorities which is a serious misconduct under E & D Rules 2011 which cannot be altogether ignored.
- d) That the pre-mature transfer of the appellant would adversely affect all the ongoing projects as referred to in Para No.7 initiated by the him.

It is pertinent to mention that the authority failed to specify justified reasons which prompted the premature transfer of the appellant from the post of Director (BS-19) Agriculture Research (Merged Areas) ARI, Tarnab Peshawar to the post of Principle Research Officer (Food Technology) Agriculture Institute Tarnab Peshawar.

(Copy of Posting & Transfer Policy is attached as Annexure-L at page No. 38-41).

- e) That according to Para-5 of the Posting & Transfer Policy of the Government;

“All the concerned are requested to ensure that tenures of the concerned officers/ officials are invariably mentioned in the summaries submitted to the competent authorities for Posting/ Transfer”

- f) That according to Section-4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974 allow the appellant to file appeal against the impugned transfer/ notification dated 24.01.2020, whether original or appellate within 30 days from the date of communication of such order to him.

Since the impugned transfer notification dated 24.01.2020 is the original/ final order, therefore the instant appeal is being filed against the original order within 30 days which is well within time.

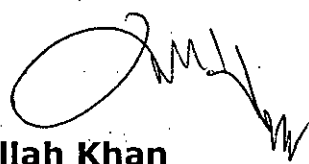
- g) That additional grounds will be raised with the permission of this Hon'ble Tribunal at the time of hearing.

Keep in view what has been stated above, it is therefore, earnestly prayed from this Hon'ble Tribunal to accept this Service appeal and the impugned Transfer Order/ Notification Reference No.SOE (AD)3(3)2/2019/RW: dated 24.01.2020 may kindly be set-aside on the ground that the appellant has not completed his tenure as Director Agriculture Research (Merged Areas) ARI Tarnab, Peshawar in terms of the various clauses of Posting/ Transfer Policy of the Provincial Government referred above in the heading of this appeal and in the light of reported judgments 1997 TD (Service) pg 56, 2005 SCMR Page 17, PLD 1995 Supreme Court 530, 2009 PLC (CS) 891, 2003 SCMR 325, PLJ 2009 Lahore 983.

Any other relief, to whom the appellant found entitle, may also be granted.


Appellant

Through


Inayat Ullah Khan
Advocate High Court
LL. M (U.K)

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK, PESHAWAR.

C.M No. _____/2020

IN

S.A.No. _____/2020

Dr. Barkat Ali Khan Appellant

Versus

Chief Minister through Chief Secretary Khyber Pakhtunkhwa
Peshawar others..... Respondents


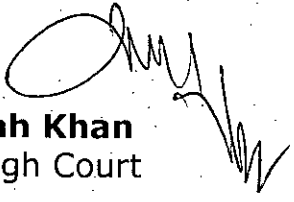
**APPLICATION FOR SUSPENSION OF
impugned Transfer Order/Notification
Reference No.SOE (AD)3(3)2/2019/RW:
dated 24.01.2020 TILL THE FINAL
DISPOSAL OF INSTANT SERVICE APPEAL
WITH FURTHER PRAYER NOT TO
TRANSFER AGAIN THE APPELLANT
DURING PENDENCY OF ACCOMPANYING
APPEAL.**

Respectfully Sheweth:-

1. That the above titled is being filed before this Honorable Tribunal which has not been fixed for hearing.
2. That the accompanying service appeal may kindly be treated as part and parcel of this application.
3. That through the instant Misc. application the appellant is seeking suspension of the impugned Transfer Order/Notification Reference No.SOE (AD)3(3)2/2019/RW: dated 24.01.2020 till the final decision of the case in the best interest of justice, fair play and equity.

- 4. That balance of convenience also lies in favour of appellant having a good prima facie case and appellant is sanguine about its success.

It is therefore humbly prayed that on acceptance of this application the impugned Transfer Order/Notification Reference No.SOE (AD)3(3)2/2019/RW: dated 24.01.2020 be suspended till the final disposal of the accompanying service appeal with further direction to the respondents not to transfer again the appellant during pendency of the accompanying service appeal.


 Appellant
 Through

Inayat Ullah Khan
 Advocate High Court
 LL. M. (U.K)

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK, PESHAWAR.

S.A.No. ____/2020


Dr. Barkat Ali Khan Appellant

Versus

Chief Minister through Chief Secretary Khyber Pakhtunkhwa
Peshawar others..... Respondents

AFFIDAVIT

I, **Dr. Barkat Ali Khan (Ph.D)** son of Akbar Ali Khan R/o Agriculture Research Institute Tarnab, Peshawar (Director (BS-19) Agriculture, Research (Merged Area) ARI, Tarnab, Peshawar do hereby affirm and declare on oath that the contents of the **Application** are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

[Handwritten Signature]
31-1-2020


[Handwritten Signature]
Deponent

Annexure

27

"A1"

103

This is an appeal filed by Dr. Barkat Ali today on 31/01/2020 against the order dated 24.01.2020 against which he preferred/made departmental appeal/ representation/review on 25.01.2020 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, which is premature as laid down in an authority reported as 2005-SCMR-890.

As such the instant appeal is returned in original to the appellant/Counsel. The appellant would be at liberty to resubmit fresh appeal after maturity of cause of action.

No. 287 /ST.

Dt. 03-02-2020.

Inayatullah
REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

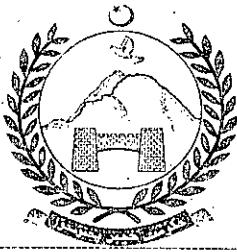
Mr. Inayatullah Khan Adv. Pesh.

Ground(s) of the appeal sufficiently highlighted the above raised query which states that as per Section 4 the KP Service Tribunal Act 1974, allow the appellant to file appeal against the impugned order dated 24-1-2020, whether original or

appellate within 30 days from the date of communication of such order to him.
Since the impugned transfer notification dated 24-1-2020 is the original order/final order, passed with the approval of the Chief Minister and there is no service appeal authority hence the instant appeal is maintainable and by fixed before the Hon'ble Chairman for hearing. Only for Inayatullah Khan Adv. Pesh.

Note:
The issue of promotion transfer is involved. Hence, the stay application is heard on merit basis.
Advocate
Inayatullah Khan

ATTESTED



GOVERNMENT OF
KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE
DEPARTMENT

Dated Peshawar, the October 11, 2018

28
Annexure

17
2

NOTIFICATION.

NO. SOE (AD) 3 (3)2/2018/DGA (R):- In continuation to this department notification No. SOE(AD) V-7/2018/RW dated 23.05.2018, the Competent Authority is pleased to order the posting/transfer of the following officers of Agriculture Research Wing in the interest of public service with immediate effect:-

Sr.No.	Name of officers	From	To	Remarks
1.	Dr. Barakat Ali Khan	SRO, Pesticide Residue, (BS-18), Directorate, Soil & Plant Nutrition, ARI Tarnab, Peshawar.	Director Agriculture Research EX-FATA (BS-19), ARI Tarnab, Peshawar.	The officer is promoted to BS-19 and proposed for posting to be vacated by Mr. Fazli Wahab SRO (BS-18), working on OPS.
2.	Mr. Fazli Wahab	Director Agriculture Research EX-FATA (BS-18), ARI Tarnab, Peshawar (OPS).	SRO (BS-18) ARS, Buner.	Caused vacant due to promotion of Mr. Muhammad Ibrahim to BS-19.

Sd/xx
SECRETARY AGRICULTURE

Endst. of even No. & Date.

Copy to the:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. The Director General, Agriculture (Research), Khyber Pakhtunkhwa, Peshawar.
4. All District Accounts Officer concerned.
5. P.S to Minister for Agriculture, Khyber Pakhtunkhwa, Peshawar.
6. P.S to Chief Secretary, Khyber Pakhtunkhwa, Peshawar
7. P.S to Secretary, Agriculture, Livestock and Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
8. P.A to Deputy Secretary (Admin), Agriculture, Livestock and Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
9. Officers concerned.
10. Master file.

(MANZOOR AHMAD AFRIDI)
SECTION OFFICER-ESTT:

ATTESTED

**GOVERNMENT OF KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE
DEPARTMENT**

Dated Peshawar, the October 11, 2018

NOTIFICATION

No.SOE(AD)3(3)/2018/DGA(R):- In continuation to this Department notification No.SOE(AD)V-7)2018/RW dated 23.05.2018, the competent Authority is pleased to order the posting/ transfer of the following officers of Agriculture Research Wing in the interest of Public Service with immediate effect:-

S.No	Name of officers	From	To	Remarks
1	Dr. Barkali Ali Khan	SRO, Pesticide Residue, (BS-18) Directorate, Soil & Plant Nutrition, ARI Tarnab, Peshawar	Director Agriculture Research Ex-FATA (BS-19), ARI Tarnab, Peshawar	The Officer is promoted to BS-19 and proposed for posting to be vacated by Mr. Fazli Wahab SRO (BS-18), working on OPS
2	Mr. Fazli Wahab	Director Agriculture Research Ex-FATA (BS-19), ARI Tarnab, Peshawar	SRO (BS-18) ARS, Buner	Caused vacant due to promotion of Mr. Muhammad Ibrahim to BS-19

SD/xxx
Secretary Agriculture.

Endst of even No. & date.

Copy to the:

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa Peshawar.
3. The Director General, Agriculture (Research), Khyber Pakhtunkhwa Peshawar.
4. All District Accounts Officer concerned.
5. PS to Minister for Agriculture, Khyber Pakhtunkhwa, Peshawar.
6. PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
7. PS to Secretary, Agriculture, Livestock and Cooperative Department, Khyber Pakhtunkhwa Peshawar.
8. PA to Deputy Secretary Agriculture Department, Khyber Pakhtunkhwa, Peshawar.
9. Officers concerned.
10. Master file.

ATTACHED

(Manzoor Ahmad Afidi)
SECTION OFFICER-ESTT

Annexure "B"

30

831-34/EX-FATA

No:.....

Dated: 25/10/2018

To

The Director General, Agricultural Research,
Government of Khyber Pakhtunkhwa,
Peshawar.

SUBJECT: POSTING/TRANSFER OF DIRECTOR AGRICULTURAL RESEARCH FATA


Respected Sir,

It is with reference to letter No: SO (P&LDD)/FS/Agri-Ext/4-1/13/2555-58 dated 24-10-2018 by office of Secretary Production & Livelihood Development Department FATA addressed to worthy Secretary Agriculture, Khyber Pakhtunkhwa, Peshawar.

In this regard following points are brought to your kind notice:

1. The undersigned after promotion to BPS-19 was posted as Director, Agriculture Research, Ex-FATA vide notification No: SOE (AD)3(3)2/2018/DGA (R) dated 11-10-2018. The undersigned assumed the charge on 16-10-2018 which was notified vide No: 13495-99/Estt:/DGAR dated 18-10-2018.
2. Mr. Fazli Wahab (BPS-18) working as Director Agriculture Research Ex-FATA on own pay & scale was now posted as SRO (BPS-18) at ARS Buner vide notification under reference. Till date Mr. Fazli Wahab has not relinquished the charge of the post of Director and has locked the offices and has taken all records, financial matters and vehicles under his custody.
3. All the staff of directorate of Agriculture Research, EX-FATA is also under immense pressure and confused.
4. The undersigned under such circumstances is facing hurdles and difficulties to smoothly run administrative and financial affairs of the post.
5. It is also brought to your notice that the undersigned is highly qualified and has gained sufficient administrative, technical and financial experience and expertise to successfully run the post as is questioned by worthy secretary P&LDD, FATA under above stated referred letter.
6. Your good self is requested to advise the undersigned and take the case with higher authorities to resolve the issue.

ATTESTED


Dr. Barkat Ali Khan
Director,
Agriculture Research,
Ex-FATA, Khyber Pakhtunkhwa.

CC:

1. PS to Secretary Agriculture Livestock & Cooperative Department, Khyber Pakhtunkhwa, Peshawar.
2. PS to the Additional Chief Secretary FATA.
3. PS to Secretary P&LDD, Ex-FATA Secretariat, Warsak Road, Peshawar.

DS / So-E

put up.

25/10



GOVERNMENT OF KHYBER PAKHTUNKHWA
DIRECTORATE GENERAL AGRICULTURAL RESEARCH

Office: at Agricultural University Peshawar
☎091-9221271 | web: www.agrires.kp.gov.pk ☎091-9221270
E-mail: dgragriresearch@gmail.com

(31)
(C)

Annexure

No. 14/22-93 /Estt/DGAR

Dated Peshawar the 06/11 /2018

The Section Officer (Estt)
Govt. Of Khyber Pakhtunkhwa,
Agric. Livestock & Cooperative Deptt.
Peshawar.

Subject: POSTING/TRANSFER OF DIRECTOR AGRICULTURAL RESEARCH EX-FATA.

Enclosed please find herewith a copy of letter No. 831-34/Ex-FATA, dated 25.10.2018 received from the Director Agricultural Research Ex-FATA, Agricultural Research Institute, Tarnab Peshawar regarding the subject cited above.

I would like to bring in your kind notice that the officer concerned did not obey the orders issued by your good office vide notification No. SOE (AD)3 (3)2/2018/DGA (R), dated 11.10.2018, the officer concerned till date did not relinquish the charge of the post of Director Agricultural Research Ex-FATA and did not assumed the charge of Senior Research Officer, at Agricultural Research Station, Buner. The officer concerned also locked the offices and taken all the records, financial matter and vehicles etc under his custody. Further to mentioned that all the staff of directorate of Agriculture Research, Ex-FATA is also under the immense pressure and confused.

The officer concerned challenges the writ of Govt. of Khyber Pakhtunkhwa. It is therefore requested that strong disciplinary action should be taken against the officer concerned.

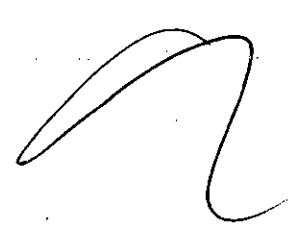
Encl: As Above.

ANNEXED


DIRECTOR GENERAL

CC.

Dr. Barkat Ali Khan, Director Agricultural Research Ex-FATA, Khyber Pakhtunkhwa for information.



Annexure

No: 939-40

"D" (36)

Dated: 19/11/2018

To


The Secretary,
Agriculture, Livestock and Cooperative Department,
Government of Khyber Pakhtunkhwa,
Peshawar.

**SUBJECT: POSTING/TRANSFER OF DIRECTOR AGRICULTURE RESEARCH,
MERGED AREAS, KHYBER PAKHTUNKHWA**

Respected Sir,

The following points are brought to your kind notice please:

1. The undersigned has assumed the charge of the post of Director, Agriculture Research, Merged Areas notified vide No: 13495-99/Estt./DGAR dated 18-10-2018 in response to Notification No: SOE (AD) 3(3) 2/2018/DGA (R) dated 11-10-2018..
2. The relieving officer Mr. Fazli Wahab has not yet till date handed over the charge to the undersigned in spite of also very clear instructions communicated vide letter No: SOE (AD)3(3)2/208/RW dated 9-11-2018.
3. The undersigned is not in a position to run affairs of post in current situation and also the pay of undersigned is not processed at AG office. The normal functioning of the directorate is badly affected due to this alarming situation.
4. The undersigned has repeatedly requested Mr. Fazli Wahab to hand over the charge but he is still reluctant to do so.
5. Your good self is requested to kindly intervene into the matter to resolve the issue.


Dr. Barkat Ali Khan
Director, Agriculture Research,
Merged Areas, Khyber Pakhtunkhwa.

CC:

Director General, Agricultural Research, Khyber Pakhtunkhwa, Peshawar.

/
Dr. Barkat Ali Khan
Director, Agriculture Research,
Merged Areas, Khyber Pakhtunkhwa.

ALISTED



GOVERNMENT OF KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE DEPARTMENT

33

Annexure 'E'

NO. SOE(AD)3(3)2/2018/RW

Dated Peshawar, the November 09, 2018

To

The Secretary Production & Livelihood,
Merged Area Secretariat,
Warsak Road, Peshawar.

SUBJECT: - POSTING/TRANSFER OF DIRECTOR AGRICULTURE RESEARCH
EX-FATA.

Dear Sir,

I am directed to refer to your officer letter No. SO (P&LDD)FS/Agri-Ext/4-1/18/2555-58 dated 24.10.2018 on the subject noted above and to state that as per decision of the Government, FATA has been merged with Khyber Pakhtunkhwa, hence ex-FATA has no legal existence now. And as per decision taken during the meeting of the Additional Chief Secretary ex-FATA with Chief Secretary Khyber Pakhtunkhwa and Secretary Agriculture Department, posting/transfers are to be made by the Provincial Government being employees of the Provincial Government and any officer/official can be posted by the Provincial Govt. anywhere. In the instant case the officer concerned is the employee of Provincial Govt. and can be posted anywhere. Therefore, this department is unable to withdraw the posting/transfer orders which were processed by the Establishment Department and duly approved by the Competent Authority i.e Chief Minister and were issued by this Department.

2. In view of the above, it is requested that the Officer concerned may be directed to immediately relieve/relinquish the charge of the post of Director Agriculture Research, ex-FATA, otherwise this department would have no other option than to initiate disciplinary action against the officer concerned who is denying to handover the charge of Director Agriculture Research ex-FATA; for noncompliance of orders of the Competent Authority which tantamount to misconduct under E&D, Rules.

Endst. of even No. & Date.

ATTESTED

SECTION OFFICER-ESTT:

Copy to:

1. The Director General, Agriculture Research, Khyber Pakhtunkhwa, Peshawar.
2. The Station Director Agriculture Research Station Buner.
3. The District Accounts Officer, Buner.
4. The AGPK, Sub-Office Peshawar with request to process the pay bill of Dr. Barkat Ali Khan and kindly entertain all bills on current and developmental side.
5. P.S to Secretary Agriculture department.
6. PA to DS (Admn), Agriculture Department.
7. Master File.

SECTION OFFICER-ESTT:



**GOVERNMENT OF KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE
DEPARTMENT**

NO. SOE(AD)3(#)/2/2018/RW
Dated Peshawar, the November 09, 2018

To

The Secretary Production & Livelihood,
Merged Area Secretariat,
Warsak Road, Peshawar

**SUBJECT: POSTING/ TRANSFER OF DIRECTOR AGRICULTURE RESEARCH
EX-FATA.**

Dear Sir,

I am directed to refer to your officer letter No.SO (P&LDD) FS/Agri-Ext/4-1/18/2555-58 dated 24.10.2018 on the subject noted above and to state that as per decision of the Government, FATA has been merged with Khyber Pakhtunkhwa, hence ex-FATA has no legal existence now. And as per decision taken during the meeting of the Additional Chief Secretary ex-FATA with Chief Secretary Khyber Pakhtunkhwa and Secretary Agriculture Department posting/ transfers are to be made by the Provincial Government being employees of the Provincial Government and any officer/ official can be posted by the Provincial Govt. anywhere. In the instant case the officer concerned is the employee of Provincial Govt. and can be posted anywhere. Therefore, this department is unable to withdraw the posting/ transfer orders which were processed by the Establishment Department and duly approved by the Competent Authority i.e. Chief Minister and were issued by this Department.

2. In view of the above, it is requested that the officer concerned may be directed to immediately relieve/ relinquish the charge of the post of Director Agriculture Research, Ex-FATA, otherwise this department would have no other option than to initiate disciplinary action against the officer concerned who is denying to handover the charge of Director Agriculture Research ex-FATA, for non-compliance of orders of the Competent Authority which tantamount to misconduct under E&D, Rules.

SD/xxx
Section Officer-ESTT:.

Endst of even No. & date.

Copy to the:

1. The Director General, Agriculture Research, Khyber Pakhtunkhwa, Peshawar.
2. The Station Director Agriculture Research Station Buner.
3. The District Accounts officer, Buner.
4. The AGPR, Sub Office Peshawar with request to process the pay bill of Dr. Barkat Ali Khan and kindly entertain all bills on current and developmental side.
5. P.S to secretary Agriculture department.
6. PA to DS (Admn), Agriculture Department.
7. Master File.

ATTESTED

SECTION OFFICER-ESTT

(33)
Annexure "F"

GOVERNMENT OF KHYBER PAKHTUNKHWA
CERTIFICATE OF TRANSFER OF CHARGE

Certified that I, Fazli Wahab (BS-18), have this day 22nd November, 2018 (After Noon) have relinquished the charge of the post of Director Agriculture Research Erstwhile FATA, Agricultural Research Institute, Tarnab Peshawar with reference to the Notification of Government of Khyber Pakhtunkhwa vide No. SOE(AD)3(3)2/2018/DGA(R) dated 11.10.2018.

Station: ARI, Tarnab Peshawar

Dated: 22.11.2018 (After Noon)

Signature of Officer Relieved: *F. Wahab*

Name of Officer Relieved: Fazli Wahab (BS-18)

No. 954-66/DARF:

Dated Peshawar the 22/11 /2018

Copy forwarded for information to:

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Additional Accountant General (Pakistan Revenue), Sub-Office Peshawar.
3. The Director General Agriculture Research Khyber Pakhtunkhwa, Peshawar.
4. The Senior Director, Agricultural Research Institute, Tarnab, Peshawar.
5. The Director Agricultural Research Station, Buner.
6. The District Accounts Officer, Buner.
7. PS to Additional Chief Secretary, FATA Secretariat, Peshawar.
8. PS to Secretary, Government of Khyber Pakhtunkhwa, Agriculture, Livestock and Cooperatives Department, Peshawar.
9. PS to Secretary, Planning and Development Department, FATA Secretariat, Peshawar.
10. PS to Secretary, Finance Department, FATA Secretariat, Peshawar.
11. The Section Officer-II, P&LDD, FATA Secretariat, Peshawar.
12. The Section Officer (Estt.), Government of Khyber Pakhtunkhwa, Agriculture, Livestock and Cooperatives Department, Peshawar.
13. All Senior Research Officers/Research Officers of the Directorate of Agriculture Research FATA.

ATTESTED

F. Wahab
Director Agriculture Research FATA
Agricultural Research Institute
Tarnab Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA
AGRICULTURE, LIVESTOCK & FISHERIES
DEPARTMENT

36
Annexure G

Dated Peshawar, the 24th January, 2020

NOTIFICATION

NO. SOE/AD/332/2019/RWL

The Competent Authority is pleased to make the post-nominations of the following officers of Agriculture Research Wing of the Department for immediate effect in the interest of public service:

Sr. No.	Name Of Officers	FROM	TO
1	Dr. Ejmal Akhlaq Director (AS-19)	Director Research (Merged Area) ARI Larnah, Peshawar	Principal Research Officer (AS-19) Agricultural Research Agri Institute, Larnah Peshawar Vice No. 02
2	M. Saif Wahab, AS-19	Principal Research Officer (AS-19) Food Technology, Agri (Merged Area) Res. Inst. Larnah Peshawar	Director Agricultural Research ARI Larnah Peshawar Vice No. 01

SD/XXX
SECRETARY AGRICULTURE

Encl. as given No. & Date

Copy to file:

- The Accountant General, Khyber Pakhtunkhwa, Peshawar
- The Director General, Agriculture Research, Khyber Pakhtunkhwa, Peshawar
- The Senior Director, Agriculture Research Institute, Larnah, Peshawar
- PS to Minister Agriculture Department, Khyber Pakhtunkhwa, Peshawar
- PS to Secretary Agriculture Department, Khyber Pakhtunkhwa, Peshawar
- DA to Deputy Secretary (Administration) Department, Khyber Pakhtunkhwa, Peshawar
- Officers concerned
- Master file

SECTION OFFICER (S-11)
AGRICULTURE DEPARTMENT

ATTACHED

Better Copy

37

GOVERNMENT OF KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE
DEPARTMENT

Dated Peshawar, the 24th January , 2020

NOTIFICATION

No.SOE(AD)3(3)2/2019/RW:- The Competent Authority is pleased to order the transfer/ posting of the following officers of Agriculture Research Wing of Agriculture Department, Khyber Pakhtunkhwa, in the interest of public service with immediate effect:-

S.No	Name of officers	From	To
1	Dr. Barkat Ali Khan Director (BS-19)	Director Agriculture Research (Merged Area), ARI, Tarnab Peshawar	Principle Research Officer (Food Technology) Agri Institute Tarnab, Peshawar Vice No.02.
2	Mr. Fazli Wahab BS-19	Principle Research Officer (Food Technology) Agri Institute Tarnab, Peshawar	Director Agriculture Research (Merged Area), ARI, Tarnab Peshawar Vice No.1

SD/xxx
Secretary Agriculture

Endst of even No. & date.

Copy to the:

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Director General, Agriculture Research Department, Khyber Pakhtunkhwa Peshawar.
3. The Senior Director Agriculture Research Department, Khyber Pakhtunkhwa Peshawar.
4. PS to Minister Agriculture Department, Khyber Pakhtunkhwa, Peshawar.
5. PS to Secretary Agriculture Department, Khyber Pakhtunkhwa, Peshawar.
6. PS to DS (Admn:) Agriculture Department, Khyber Pakhtunkhwa, Peshawar.
7. Officers concerned.
8. Master file.

SECTION OFFICER-ESTT:
AGRICULTURE DEPARTMENT.

ATTESTED

Annexure "H"
38



**GOVERNMENT OF KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE
DEPARTMENT**

Dated Peshawar, the May 28, 2019

NOTIFICATION

AD/AD/V-7/2018/KW:- The Competent Authority is pleased to order the transfer/posting of the following officers of Agriculture Research Department, Khyber Pakhtunkhwa, in the interest of public service with immediate effect: -

Sl.No.	Name of officers	From	To
1	Dr. Abdul Latif	Senior Director (BS-20), ARI Tarnab Peshawar.	Senior Director Outreach (BS-20) Directorate of Outreach, Agriculture Research Khyber Pakhtunkhwa, Peshawar
2	Dr. Masood Jan (BPS-19)	Senior Director Outreach (BS-20) Directorate of Outreach, Agriculture Research Khyber Pakhtunkhwa, Peshawar (OPS)	Senior Director ARI Tarnab (BS-20) Directorate of Outreach, Agriculture Research Khyber Pakhtunkhwa, Peshawar (OPS)
	Mr. Niaz Muhammad	Director (BS-18) BARS Jarma Kohat (OPS)	PRO (SPN), (BS-19) ARI D.J.Khan
	Mr. Javed Iqbal	SRO (Horticulture), BS-18 BARS Jarma Kohat.	PRO, BARS, Jarma Kohat.
	Muhammad Ayaz Khan	SRO (Stone Fruit), BS-18 ARI Mingora Swat.	Director Agriculture Research Institute, BPS-19 Mingora/Swat.
	Dr. Abdul Bari	Director Agriculture Research Institute, Mingora/Swat.	Director ARS Buner. Vice No. 12
	Mr. Zafar Ali Khan	SRO, ARS BS-18 Swabi.	PRO (Floriculture) BS-19 ARI Tarnab Peshawar
	Mr. Ziaullah	SRO (Floriculture) BS-18 ARI Tarnab Peshawar.	Director SPN, BS-19 ARI Tarnab Peshawar
	Mr. Fazli Wahab	SRO (BS-18), Agriculture Research Ex-FATA, ARI Tarnab Peshawar	Director Outreach (BS-19) Agriculture Research Khyber Pakhtunkhwa Peshawar.
	Muhammad Ibrahim	PRO (SPN) (BS-19), ARI Mingora Swat.	Director BS-19, ARS Seen Lashit Chitral.
	Dr. Amjad Khan	PRO (Vegetable) BS-19, ARI, Mingora Swat.	PRO (SPN) BS-19 ARI Mingora Swat.
	Muhammad Hyas	Director ARS Buner.	PRO (Vegetable) BS-19, ARI, Mingora Swat

A. J. J. J. J.

Sd/x
**SECRETARY TO GOVERNMENT
OF KHYBER PAKHTUNKHWA
AGRICULTURE DEPARTMENT.**

Ends of even No. & Date.

304

Copy to the:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Director General, Agriculture Research Department, Khyber Pakhtunkhwa Peshawar.
3. All concerned District Accounts Officer.
4. Principal Secretary to Chief Minister Khyber Pakhtunkhwa.
5. PS to Chief Secretary, Khyber Pakhtunkhwa.
6. PS to Secretary Establishment Department Khyber Pakhtunkhwa.
7. PS to Minister Agriculture Department, Khyber Pakhtunkhwa, Peshawar.
8. PS to Secretary Agriculture Department, Khyber Pakhtunkhwa, Peshawar.
9. PA to DS (Admn.), Agriculture Department.
10. Officers concerned.
11. Master file.

(SHAMS-UL-ISLAM)
SECTION OFFICER-ESTT:

20/5/17

ATTESTED

To be substituted with this department notification of even number dated 27.05.2019.

**Government of Khyber Pakhtunkhwa
Agriculture Livestock & Cooperative
Department**

Dated Peshawar, the May 28, 2019

Notification

No. SOE(AD)/V-7/2018/RW:- The Competent Authority is pleased to order the transfer/posting of the following officers of Agriculture Research Department, Khyber Pakhtunkhwa, in the interest of Public Service with immediate effect:-

S.No	Name of officers	From	To
1	Dr. Abdul Latif	Senior Director (BS-20), ARI Tarnab Peshawar	Senior Director Outreach (BS-20) Directorate of Outreach, Agriculture Research Khyber Pakhtunkhwa Peshawar.
2	Dr. Masood Jan (BPS-19)	Senior Director Outreach (BS-20) Directorate of Outreach, Agriculture Research Khyber Pakhtunkhwa, Peshawar (OPS)	Senior Director ARI Tarnab (BS-20) Directorate of Outreach, Agriculture Research Khyber Pakhtunkhwa, Peshawar (OPS)
3	Mr. Niaz Muhammad	Director (BS-18) BARS Jarma Kohat (OPS)	PRO (SPN), (BS-19) ARI D I Khan
4	Mr. Javed Iqbal	SRO (Horticulture), BS-18 BARS Jarma Kohat	PRO, BARS Jarma Kohat
5	Muhammad Ayaz Khan	SRO (Stone Fruit), BS-18 ARI Mingora Swat.	Director Agriculture Research Institute, BPS-19 Mingora Swat
6	Dr. Abdul Bari	Director Agriculture Research Institute, Mingora / Swat	Director ARS Buner. Vice No.12
7	Mr. Zafar Ali Khan	SRO, ARS BS-18 Swabi.	PRO (Floriculture) BS-19 ARI Tarnab Peshawar
8	Mr. Ziaullah	PRO (Floriculture) BS-18 ARI Tarnab Peshawar	Director SPN, BS-19 ARI Tarnab Peshawar
9	Mr. Fazli Wahab	SRO (BS-18) Agriculture Research Ex FATA, ARI Tarnab Peshawar	Director Outreach (BS-19) Agriculture Research Khyber Pakhtunkhwa Peshawar
10	Muhammad Ibrahim	PRO (SPN) (BS-19), ARIO Mingora Swat	Director BS-19, ARS Seen Lash Chitral.
11	Dr. Amjad Khan	PRO (vegetable) BS-19 ARI, Mingora Swat	PRO (SPN) BS-19 ARI Mingora Swat.
12	Muhammad Ilyas	Director ARS Buner	PRO (vegetable) BS-19 ARI, Mingora Swat

SD/xxx
Secretary to Government
Of Khyber Pakhtunkhwa
Agriculture Department.

8
ANNEXED



Endst of even No. & date.

Copy to the:

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Director General, Agriculture Research Department, Khyber Pakhtunkhwa Peshawar.
3. All concerned District Accounts Officer.
4. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa Peshawar.
5. P.S to Chief Secretary Khyber Pakhtunkhwa, Peshawar.
6. P.S to Secretary Establishment Khyber Pakhtunkhwa, Peshawar.
7. PS to Minister Agriculture Department, Khyber Pakhtunkhwa, Peshawar.
8. PS to Secretary Agriculture Department, Khyber Pakhtunkhwa, Peshawar.
9. PS to DS (Admn:) Agriculture Department, Khyber Pakhtunkhwa, Peshawar.
10. Officers concerned.
11. Master file.

(SHAMS UL ISLAM)
SECTION OFFICER-ESTT:

ATTESTED

Annexure I (42)

GOVERNMENT OF KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE
DEPARTMENT

Dated Peshawar, the October 04, 2019

NOTIFICATION

OS/AD/IV-7/2019/RW:-
The Competent Authority is pleased to order the transfer/posting of the following officers of Agriculture Research Wing of Agriculture Department, Khyber Pakhtunkhwa, in the interest of public service with immediate effect:-

Name of officers	From	To	Remarks
Dr. Zaheer Ullah Khan	SRO (Soil Fertility) BPS-18. D(SPN) ARI Tarnab Peshawar.	Director Outreach (BPS-19), Agriculture Research Khyber Pakhtunkhwa, Peshawar.	Promoted to BPS-19 vide this department notification of even No. dated 19.06.2019. Vice Sr. No. 02.
Mr. Fazil Wahab	Director Outreach (BPS-19), Agriculture Research Khyber Pakhtunkhwa, Peshawar.	PRO (Food Technology) (BPS-19) ARI, Tarnab, Peshawar.	Vice Sr. No. 03
Dr. Sad-ur-Rehman	PRO (Food Technology) (BPS-19). ARI, Tarnab, Peshawar.	PRO Cereal BPS-19 ARI, Tarnab Peshawar.	On existing vacancy.

Sd/xxx
SECRETARY TO GOVERNMENT
OF KHYBER PAKHTUNKHWA
AGRICULTURE DEPARTMENT.

List of even No. & Date.

ATTESTED

Copy to the:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Director General, Agriculture Research Department, Khyber Pakhtunkhwa Peshawar.
3. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa, Peshawar.
4. PS to Chief Secretary Khyber Pakhtunkhwa, Peshawar.
5. PS to Secretary Establishment Khyber Pakhtunkhwa, Peshawar.
6. PS to Minister Agriculture Department, Khyber Pakhtunkhwa, Peshawar.
7. PS to Secretary Agriculture Department, Khyber Pakhtunkhwa, Peshawar.
8. PA to DS (Admn): Agriculture Department, Khyber Pakhtunkhwa, Peshawar.
9. Officers concerned.
10. Master file.

(SIAMS-UL-ISLAM)
SECTION OFFICER-ESTT:

04/10/19

GOVERNMENT OF KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE
DEPARTMENT

Dated Peshawar, the October 04, 2019

NOTIFICATION

No.SOE(AD)V-7/2019/RW:- The Competent Authority is pleased to order the transfer/ posting of the following officers of Agriculture Research Wing of Agriculture Department, Khyber Pakhtunkhwa, in the interest of public service with immediate effect:-

S.No	Name of officers	From	To	Remarks
1	Dr. Zaheer Ullah Khan,	SRO (Soil Fertility) BPS-18, D(SPN) ARI Tarnab Peshawar.	Director Outreach (BPS-19), Agriculture Research Khyber Pakhtunkhwa Peshawar.	Promoted to BPS-19 vide this department notification of even No. dated 19.06.2019. Vice Sr. No. 02.
2	Mr. Fazli Wahab	Director Outreach (BPS-19), Agriculture Research Khyber Pakhtunkhwa, Peshawar	PRO (Food Technology) (BPS-19) ARI, Tarnab, Peshawar	Vice Sr. No.03
3	Dr. Sad ur Rahman	PRO (Food Technology) (BPS-19) ARI, Tarnab, Peshawar	PRO Cereal BPS-19 ARI, Tarnab Peshawar	On existing Vacancy.

SD/xxx
Secretary to Government
Of Khyber Pakhtunkhwa
Agriculture Department.

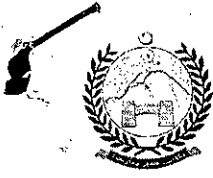
Endst of even No. & date.

Copy to the:

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Director General, Agriculture Research Department, Khyber Pakhtunkhwa Peshawar.
3. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa Peshawar.
4. P.S to Chief Secretary Khyber Pakhtunkhwa, Peshawar.
5. P.S to Secretary Establishment Khyber Pakhtunkhwa, Peshawar.
6. PS to Minister Agriculture Department, Khyber Pakhtunkhwa, Peshawar.
7. PS to Secretary Agriculture Department, Khyber Pakhtunkhwa, Peshawar.
8. PS to DS (Admn:) Agriculture Department, Khyber Pakhtunkhwa, Peshawar.
9. Officers concerned.
10. Master file.

ATTESTED

(SHAMS UL ISLAM)
SECTION OFFICER-ESTT:



GOVERNMENT OF KHYBER PAKHTUNKHWA
DIRECTORATE GENERAL AGRICULTURAL RESEARCH



Office: at Agricultural University Peshawar

☎ 091-9221271 web: www.agrires.kp.gov.pk 📠 091-9221270

E-mail: dgragriresearch@gmail.com

NOTIFICATION

In pursuance of Section Officer (Estt) Government of Khyber Pakhtunkhwa Agriculture Livestock & Cooperative Department notification No. SOE (AD)3 (3)2/2018/DGA (R), dated 11.10.2018, Dr. Barakat Ali Khan has relinquished the charge of the post of Senior Research Officer (Pesticide) office of the Director Soil & Plant Nutrition, Agricultural Research Institute, Tarnab Peshawar on 15.10.2018 (A.N).

Accordingly Dr. Barakat Ali Khan has assumed the charge of the post of Director Agricultural Research Ex-FATA, Agricultural Research Institute, Tarnab Peshawar on 16.10.2018 (F.N)

Sd/-
DIRECTOR GENERAL

No. 13495-99 /Estt:/DGAR,

Dated Pesh: the, 18/10 /2018

Copy to:-

1. The Accountant General Khyber Pakhtunkhwa Peshawar.
2. The Additional Accountant General (Pak Revenue) Sub-Office Peshawar.
3. The Director Soil & Plant Nutrition, Agricultural Research Institute, Tarnab Peshawar vide his letter No. 679/DSPN, dated 15.10.2018.
4. The Director Agricultural Research Ex-FATA, Agricultural Research Institute, Tarnab Peshawar vide his letter No. 796/DAR (F), dated 16.10.2018.
5. The Officer concerned.

For information and necessary action.


DIRECTOR GENERAL

ATTESTED

Directorate of Agriculture Research (Merged Areas)
Agriculture Research Institute Tarnab Peshawar

ADP 2019-20

AIP 2019-20

درجہ اولیٰ	خرچ شدہ رقم	پروٹیکشن	مختصر آرم	پابلیک اسیسٹنٹ
5	2	1	27	4
15	10	14	56	
16	53	64	54	2
93	2	22	89	
	24	10	38	
7	72	9	18	

پابلیک اسیسٹنٹ: 4
مختصر آرم: 27
پروٹیکشن: 1
خرچ شدہ رقم: 2
درجہ اولیٰ: 5

پابلیک اسیسٹنٹ: 2
مختصر آرم: 54
پروٹیکشن: 14
خرچ شدہ رقم: 10
درجہ اولیٰ: 15

پابلیک اسیسٹنٹ: 2
مختصر آرم: 54
پروٹیکشن: 64
خرچ شدہ رقم: 53
درجہ اولیٰ: 16

پابلیک اسیسٹنٹ: 89
مختصر آرم: 22
پروٹیکشن: 2
خرچ شدہ رقم: 2
درجہ اولیٰ: 93

پابلیک اسیسٹنٹ: 38
مختصر آرم: 10
پروٹیکشن: 24
خرچ شدہ رقم: 24
درجہ اولیٰ: 93

پابلیک اسیسٹنٹ: 18
مختصر آرم: 9
پروٹیکشن: 72
خرچ شدہ رقم: 72
درجہ اولیٰ: 7



Directorate of Agriculture Research (Merged Areas)
Agriculture Research Institute Tarnab Peshawar.

ADP 2019-20

پراجیکٹ کا نام	مختص رقم	جاری شدہ رقم	خرچ شدہ رقم	دیے گئے سپلائی آرڈر
باجوڑ اور جنوبی وزیرستان میں زمین اور پانی کی ٹیسٹنگ لیبارٹری کا قیام	4 کروڑ 27 لاکھ	1 کروڑ 9 لاکھ	45 لاکھ	2 کروڑ 5 لاکھ
سبزیوں اور غلے دار اجناس پر تحقیق	56 لاکھ	14 لاکھ	10 لاکھ	35 لاکھ
ضم شدہ اضلاع میں زرعی تحقیق کی سہولیات کا فروغ اور نیر جمال فارم کی بحالی کا منصوبہ	2 کروڑ 54 لاکھ	64 لاکھ	53 لاکھ	16 لاکھ
ضم شدہ اضلاع میں پھلوں کی نئی اقسام کے باغات کی کاشت	89 لاکھ	22 لاکھ	2 لاکھ	93 لاکھ
ضم اضلاع میں تصدیق شدہ گندم بچ پیدا کرنے کے نظام کا تعارف	38 لاکھ	10 لاکھ	24 لاکھ	

AIP 2019-20

پراجیکٹ کا نام	مختص رقم	جاری شدہ رقم	خرچ شدہ رقم	دیے گئے سپلائی آرڈر
کرم اور اورکزئی میں نشوونما کے ذریعے جراثیم سے پاک آلو کا تخم پیدا کرنے کا منصوبہ	18 کروڑ	9 کروڑ	72 لاکھ	7 کروڑ

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Annexure "J1" (47)

**DIRECTORATE GENERAL AGRICULTURE RESEARCH
KHYBER PAKHTUNKHWA, 25130, PESHAWAR**

☎ 091-9221271

web: www.agrires.kp.gov.pk ☎ 091-9221270

E-mail: dgragriresearch@gmail.com



No 4912-13 /Estt//DGAR

Dated the Peshawar 06/04/2020

To

Dr. Barkat Ali Khan,
Ex-Director
Agriculture Research (Merged Areas)
ARI, Tarnab, Peshawar.

Subject:- **EXPLANATION**

Memo:-

You were directed to implement the Agriculture Department Notification No. SOE(AD)3(3)/2/2019/RW; dated 24.01.20120 vide this office letter No.1150-53/Estt/DGAR; dated 30.01.2020. It is very regretful to note that till to date you have neither relinquished the charge of the post of Director, Agriculture Research (Merged Area), ARI, Tarnab, Peshawar nor assumed the charge of the post of PRO (Food Technology), ARI, Tarnab, Peshawar. As per standing directives of the Government of Khyber Pakhtunkhwa regarding joining time, you were required to assume the charge of the post of PRO (Food Technology), ARI, Tarnab within a week time. However, it is astonishing to note, that after lapse of more than two months, you have not obeyed the Government transfer order. Your this practice is tantamount toward misconduct under the Government of Khyber Pakhtunkhwa, Civil Servants (Conduct Rules), 1987 and disobedience under Government of Khyber Pakhtunkhwa Efficiency and Disciplinary Rules, 2011. It is further added that the Government vehicles i.e, Toyota Pick-Up DC 4x4- newly purchased and Pajeero Jeep reportedly have been in use of some private persons.

In view of the foregoing, you are absent from duty since 24.01.2020 under the Government of Khyber Pakhtunkhwa joining time instruction (GFR/FR) which becomes under the Conduct and Efficiency and Disciplinary rules ibid. You are hereby directed to obey the notification issued on 24.01.2020 immediately as well as handed over the Government vehicles and explain your wilful absence and disobedience within three days of issuance of this letter otherwise strict disciplinary proceeding will be initiated against you under the ibid rules, which might culminate in dismissal from service or any other major penalty.


**DIRECTOR GENERAL
AGRICULTURAL RESEARCH**

Copy of the above is forwarded to:-

P.S to Secretary, Agriculture, Livestock & Cooperative Department, Government of Khyber Pakhtunkhwa, Peshawar for information please.

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Annex J2 (48)

To,

Director General
Agriculture Research, Khyber Pakhtunkhwa
University of Agriculture Peshawar

Subject: - REPLY TO EXPLANATION

Kindly reference your letter no 4912-13/ESTT/DGR dated 06-04-2020. In this connection it is submitted that as per standing provisional government civil servants rules, right of appeal has been provided to all civil servants against any order/notification damaging the basic rights and rules. The undersigned has accordingly submitted a review petition dated 25-01-2020 against impugned transfer notification dated 24-01-2020. The review is still under process (copies enclosed for your reference). The undersigned has also submitted suit in the court of Law for cancellation of this impugned transfer order. If these petitions are rejected, the undersigned will relinquish the charge of post of Director Agriculture Research Merged Areas in compliance with the subject notification.

It is thus requested to withdraw this explanation till decision of the petition.

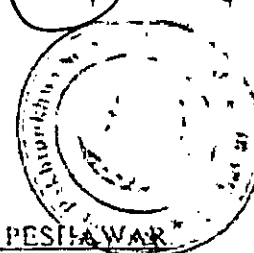
Dr Barkat Ali Khan
ARI Tarnab Peshawar

Copy to:

Ps to Secretary Agriculture, Livestock and cooperatives, Government of Khyber Pakhtunkhwa for information.

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Annexure^R K² 49



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1490/2019

Date of Institution ... 05.11.2019

Date of Decision ... 16.01.2020

Mst. Neelofar Kamran W/o Kamran Khan, resident of Garerah Shahjehan, Bannu Presently. services placed at the disposal of the Director E&SE Department, Peshawar. ... (Appellant)

VERSUS

The Chief Secretary, Khyber Pakhtunkhwa, Peshawar and three others ... (Respondents)

MR. KAMRAN KHAN, Special Attorney ... For appellant.

MR. ZIAULLAH, Deputy District Attorney ... For respondents

MR. AHMAD HASSAN ... MEMBER (Executive)
MR. MUHAMMAD AMIN KHAN KUNDI ... MEMBER (Judicial)

JUDGMENT:

AHMAD HASSAN, MEMBER:- Arguments of the learned counsel for the parties heard and record perused.

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ARGUMENTS:

02. Special Attorney for the appellant argued that through notification dated 08.03.2019, she was posted from the post of Principal (BPS-19 T C) GGHSS, Qamar Zaman, Mandew, Bannu as DEO(F) Bannu. However, vide impugned notification dated 03.05.2019, she was prematurely transferred in blatant violation of Posting /Transfer Policy of the provincial government and her services were placed at the disposal of Directorate of Elementary and Secondary Education Department for further posting. Her ... lary was also stopped without assigning any reason. A separate C.M/application for

(50)

release of salary was also moved but to no avail. Subsequently, as a result of notification dated 16.08.2019, she was allowed to draw salary against the vacant post of Principal of OGISS, Qamar Zaman, Mandew, Bannu w.e.f. 03.05.2019 to 31.07.2019. After her salary was stopped and till today she has neither been adjusted nor paid salary. Her refusal to notify appointments having been declared illegal by the superior courts was instrumental in her premature transfer. She tried her level best to resolve this matter and sought advice from the respondents but without any positive outcome.

03. The Special Attorney also contended that approval of the Chief Minister, Khyber Pakhtunkhwa was required for transfer of employees of BPS-19, whereas impugned transfer order was issued by the Secretary E&SE Department, who was not the competent authority in the instant case, as such the said order was *coram non-judice* and not tenable in the eyes of law. The locals of the area also ganged against the appellant, as was evident from the press clipping annexed with the service appeal. Though, she was removed on the ground of being from the Teaching Cadre but candidates whose names were appearing at serial no. 16,17,18,19,20,21,22,23,24,25,26 and 27 of order dated 08.03.2019 were also from the same cadre. This act of respondents smacked of discrimination, malafide and personal grudge against the appellant.

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04. Learned Deputy District Attorney argued that the present appeal was not maintainable being hit by Section-4 Khyber Pakhtunkhwa Service Act 1974. Impugned order was passed on 03.05.2019 against which departmental appeal was filed on 28.05.2019 which remained un-answered and finally service appeal was filed on 04.11.2019. Therefore, the present service appeal was barred by time thus not maintainable. He further stated that the appellant belonged to Teaching Cadre and was

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not eligible to be posted as DEO being a Management cadre post. Under Section-10 of



the Khyber Pakhtunkhwa Civil Servants Act 1973, a civil servant is required to serve anywhere in the province. Action on the part of the respondents was fully backed by law and rules no malafide could be attributed to them.

CONCLUSION:

05. The appellant in the present service appeal is a BPS-19 employee of Teaching Cadre. Through notification dated 08.03.2019, she was transferred from the post of Principal, GGHSS, Qamar Zaman Mandew, Bannu and posted as DEO(F), Bannu against a vacant post. In addition to the appellant officers mentioned at serial no.16 to 27 of Teaching Cadre were also given postings against the post earmarked for Management Cadre. These postings were notified in utter violation of policy notified by the respondents, where-under there was bar on posting of officers of Teaching Cadre against Management Cadre posts. We have not been able to comprehend as to what prompted/compelled the respondents to trample their own instructions under their feet and that too without any plausible explanation/justification? Perhaps those at helm of the affairs though were custodian of law/rules, but had scant regard for same. They preferred to flout rules for extraneous considerations and enjoyed protection of the concerned.

06. Impugned order dated 03.05.2019, where-under services of the appellant were placed at the disposal of Director E&SE was passed by the Secretary E&SE Department, whereas authority for passing such order was vested in the Chief Minister, Khyber Pakhtunkhwa. As such this order being passed without lawful authority was *coram-non-judice* in the eyes of law. This fact was also confirmed by Section Officer (Litigation) E&SE Department present during the hearing. It is a worst case of abuse of authority and against the established procedure/norms for disposal of official business. The officer who passed these orders owes an explanation for his action being not covered under the

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law rules. In addition to this the appellant was prematurely transferred in sheer violation of posting/transferred policy notified by the provincial government

07 We have noted with great concern that ever since the issuance of impugned order, her salary was stopped for reasons best known to the respondents. However, it could be easily inferred that as she failed to tow the line of respondents and budge under their undue pressure, so easiest way was to victimize her and send a loud message to others not to challenge the illegal acts of the respondents. Subsequently, through order dated 16.08.2019, she was paid salary against the vacant post of Principal (BPS-17) GGHSS, Qamar Zaman Mandew, Bahhu w e f 31.05.2019 to 31.07.2019. Thereafter, again her salary stopped and till today neither she has been given any posting nor paid salary. We condemn this inhuman act of the respondents. To instill fear of God in insensitive, merciless and hard hearted officers, the only available remedy is to bring ^{them} to book by giving exemplary punishment in order to ensure safe administration of justice.

08 It is understood that the appellant rightly resisted all sorts of pressures by not notifying the illegal appointment orders duly endorsed by the superior courts. The beneficiaries lodged not only written complaint against the appellant, but also started smear vilification campaign against her through newspapers, as was evident from press clipping published in Daily AJJ on 27.03.2019 and placed on case file.

09 We are fully in agreement with the respondents that employees of Teaching Cadre should not be posted against the posts meant for the officers of Management Cadre but when respondents started bypassing their own policy then net result was order dated 08.03.2019. Another funny thing that would expose high handedness, favoritism and misuse of authority by the respondents is notification dated 03.05.2019 and 17.07.2019


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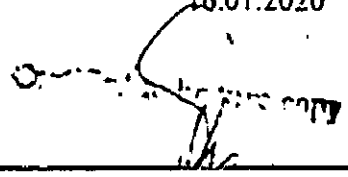
Previously additional charge of post of DEO (F) was assigned to DEO(F) Karak and subsequently, the responsibilities were handed over to Mr. Ikram Ullah Khan (BPS-18 T.C) Deputy District Education Officer (M), Bannu in addition to his own duties. Why additional charge was assigned to an officer of Teaching Cadre? These inherent contradictions in the stance of the respondents are sufficient to prove their discriminatory acts having no sanction of law/rules. As the impugned order is *corum-non-judice*, hence, cannot be sustained under any law/rules so it is liable to be struck down. Suffice is to say that impugned order being *corum-non-judice* is void ab-initio and no limitation runs against a void order.

10. Foregoing in view, the impugned order dated 03.05.2019 is set aside and the respondents are directed to issue fresh posting order against the post of DEO (F) Bannu after getting approval from the competent authority. The appellant may be given proper posting in her own cadre immediately and outstanding salaries should be paid within one month positively. Parties are left to bear their own costs. File be consigned to the record room.


(AHMAD HASSAN)
Member


(MUHAMMAD AMIN KHAN KUNDI)
Member

ANNOUNCED
16.01.2020



Date of ... 16-01-2020
26-2400

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Posting and Transfer

Annexure "L"
(54)

Statutory Provision.

Section 10 of the NWFP Civil Servants Act, 1973.

Posting and Transfer. Every civil servant shall be liable to serve anywhere within or outside the Province, in any post under the Federal Government, or any Provincial Government or Local authority, or a Corporation or body set up or established by any such Government:-

Provided that nothing contained in this section shall apply to a civil servant recruited specifically to serve in a particular area or region;

Provided further that, where a civil servant is required to serve in a post outside a service or cadre, his terms and conditions of service as to his pay shall not be less favourable than those to which he would have been entitled if he had not been so required to serve.

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 posing/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) { }
- vi) While making postings/transfer from settled areas to FATA and vice-versa, specific approval of Governor, NWFP needs to be obtained

¹While making postings/transfers of officers/officials up to BS-17, from settled areas to FATA and vice-versa approval of the Chief Secretary NWFP

1 Para-1(v) regarding months of March and July for posting/transfer and authorities for relaxation of ban deleted vide letter No: SOR-VI (E&AD) 1-4/2008/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.

(55)

ESTA CODE [Establishment Code Khyber Pakhtunkhwa] 85

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.

- vi (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.
- viii) No posting/transfers of the officer's/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
2 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.

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

~~ANNEXED~~

Posting and Transfer

Annexure "L"

(54)

Statutory Provision.

Section 10 of the NWFP Civil Servants Act, 1973.

Posting and Transfer. Every civil servant shall be liable to serve anywhere within or outside the Province, in any post under the Federal Government, or any Provincial Government or Local authority, or a Corporation or body set up or established by any such Government:-

Provided that nothing contained in this section shall apply to a civil servant recruited specifically to serve in a particular area or region;

Provided further that, where a civil servant is required to serve in a post outside a service or cadre, his terms and conditions of service as to his pay shall not be less favourable than those to which he would have been entitled if he had not been so required to serve.

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) { }
- vi) While making postings/transfer from settled areas to FATA and vice-versa, specific approval of Governor, NWFP needs to be obtained

¹While making postings/transfers of officers/officials up to BS-17, from settled areas to FATA and vice-versa approval of the Chief Secretary NWFP

1 Para-1(v) regarding months of March and July for posting/transfer and authorities for relaxation of ban deleted vide letter No: SOR-VI (E&AD) 1-4/2008/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.

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ESTA CODE [Establishment Code Khyber Pakhtunkhwa] 87

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.

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.

5. 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: Latter No: SOR-VI/E&AD/1-4/2003 dated 24-6-2003}.

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To

The Chief Minister
Khyber Pakhtunkhwa Peshawar.

Subject: Review Petition against the impugned Transfer Order/Notification Reference No.SOE (AD)3(3)2/2019/RW: dated 24.01.2020 whereby the petitioner was prematurely transferred from the post of Director Agriculture, Research (Merged Areas) ARI, Tarnab, Peshawar to Principle Research Officer Food Technology, Agriculture Institute, Tarnab Peshawar.

PRAYER:

On acceptance of this Review Petition the impugned Transfer Order / Notification Reference No.SOE (AD)3(3)2/2019/RW: dated 24.01.2020 may kindly be set-aside on the ground that the petitioner has not completed his tenure as Director Agriculture Research (Merged Areas) ARI Tarnab, Peshawar in terms of the various clauses of Posting/ Transfer Policy of the Provincial Government referred above in the heading of this Petition and in the light of reported judgments 1997 TD (Service) pg 56, 2005 SCMR Page 17, PLD 1995 Supreme Court 530, 2009 PLC (CS) 891, 2003 SCMR 325, PLJ 2009 Lahore 983.

Respectfully Sheweth;

Brief facts giving rise to the instant Petition are as under:-

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- 1) That the petitioner was promoted vide notification dated 11.10.2018 from the post of SRO, Pesticide Residue, (BS-18), Directorate Soil & Plant Nutrition, ARI Tarnab, Peshawar to the post of Director Agriculture Research Ex-FATA (BS-19) ARI Tarnab, Peshawar and he was posted on the position which was vacated by respondent No.5
- 2) That the petitioner moved a letter dated 25.10.2018 to Director General, Agriculture Research, Khyber Pakhtunkhwa Peshawar with a request to direct respondent No.5 to immediately handover charge of the post against which the petitioner was transferred as he was reluctant to relinquish his charge.

It is pertinent to mention that D.G Agriculture Research Ex-FATA vide memo dated 06.11.2018 self explanatory on the subject of Posting & Transfer Director Agriculture Research Ex-FATA, referred the issue to the Section Officer (Estt) Govt of Khyber Pakhtunkhwa, Agric. Livestock & Cooperative Department Peshawar, that Mr. Fazli Wahab did not assume the charge of Senior Research Officer, at Agriculture Research Station, Buner.

- 3) That likewise in consequence of the posting order as referred to in Para No.1, the respondent No.5 was resorting to delaying tactics to hand over charge of the post of Director Agriculture Research (Merged Areas), hence the petitioner wrote another memo dated 19.11.2018 to respondent No.3 with a request to direct respondent No.5 to immediately handover the charge of the above referred post.

It is important to mention that respondent No.5 after a hectic effort was directed by respondent No.3 to immediately

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relieve/ relinquish the charge of the post of Director Agriculture Research, Ex-FATA otherwise this department would have no other option but to initiate disciplinary action against him.

- 4) That finally respondent No.5 namely Fazli Wahab relinquish the charge of the post of Director Agriculture Research Ex-FATA, ARI, Tarnab, Peshawar on 22.11.2018.
- 5) That the petitioner Dr. Barkat Ali, Director (BS-19) Agriculture Research (Merged Areas) AIR, Tarnab, Peshawar was transferred to the post of Principle Research Officer, Food Technology, Agriculture Institute Tarnab Peshawar prematurely before completion of his tenure vide order dated 24.01.2020, while respondent No.5 namely Fazli Wahab was posted against the Post of the Petitioner.
- 6) That prior to the impugned transfer order/ notification dated 24.01.2020, the respondent No.5 was posted earlier in District Buner, wherefrom he was transferred to Peshawar in less than a month time. Respondent No.5 was again transferred/ posted vide notification dated 28.05.2019 from SRO (BS-18) Agriculture Research Ex-FATA ARI Tarnab Peshawar to the post of Director Outreach (BS-19) Agriculture Research Khyber Pakhtunkhwa Peshawar.

It is pertinent to mention that respondent No.5 namely Fazli Wahab was again transferred/ posted vide notification dated 04.10.2019 from the post of Director Outreach (BS-19) Agriculture Research Khyber Pakhtunkhwa Peshawar to PRO (Food Technology) (BS-19) ARI, Tarnab Peshawar.

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16/13

The respondent No.5 was again posted/transferred vide impugned transfer/ posting notification dated 24.01.2020, whereby he was transferred from the post of Principle Research Officer (Food Technology) Agriculture Institute Tarnab Peshawar to the post of petitioner pre-maturely as Director Agriculture Research (Merged Areas) ARI Tarnab Peshawar. Impugned transfer order already mentioned in Para No.5 above.

- 7) That the petitioner while working as Director Agriculture Research (Merged Areas) Agriculture Research Institute Tarnab Peshawar was working on various projects initiated by him, which would be adversely effected because of the pre-mature transfer of the petitioner from the post. The details of the project are mentioned for the convenience of this Hon'ble Tribunal.

Directorate of Agriculture Research (Merged Areas)
Agriculture Research Institute Tarnab Peshawar.
ADP 2019-20

ADP 2019-20

پراجیکٹ کا نام	مختص رقم	جاری شدہ رقم	خرچ شدہ رقم	دیئے گئے سپلائی آرڈر
باجوڑ اور جنوبی وزیرستان میں زمین اور پانی کی ٹیسٹنگ ایبیلٹی کا قیام	4 کروڑ 27 لاکھ	1 کروڑ 9 لاکھ	45 لاکھ	2 کروڑ 5 لاکھ
سبزیوں اور غلے دار اجناس پر تحقیق	56 لاکھ	14 لاکھ	10 لاکھ	35 لاکھ
ضم شدہ اضلاع میں زرعی تحقیق کی سہولیات کا فروغ اور صبر حال فارم کی بحالی کا منصوبہ	2 کروڑ 54 لاکھ	64 لاکھ	53 لاکھ	16 لاکھ
ضم شدہ اضلاع میں پھلوں کی نئی اقسام کے باغات کی کاشت	89 لاکھ	22 لاکھ	2 لاکھ	93 لاکھ
ضم اضلاع میں تصدیق شدہ گندم بیج پیدا کرنے کے نظام کا تعارف	38 لاکھ	10 لاکھ	24 لاکھ	

AIP 2019-20

پراجیکٹ کا نام	مختص رقم	جاری شدہ رقم	خرچ شدہ رقم	دیئے گئے سپلائی آرڈر
کرم اور اورکزئی میں ٹشو کلچر کے ذریعے جراثیم سے پاک آلو کا تنم پیدا کرنے کا منصوبہ	18 کروڑ	9 کروڑ	72 لاکھ	7 کروڑ

(62)

GROUND FOR REVIEW:

- a) That the impugned transfer/ posting notification dated 24.01.2020 is violative of the mandatory clauses of Posting & Transfer Policy of the Provincial Government and various reported judgments of this Hon'ble Tribunal and of the August Supreme Court of Pakistan as mentioned in the heading of this Petition.
- b) That this Hon'ble tribunal has already declared in a recent judgment in case titled Mst. Nilofar Kamran.VS.. The Chief Secretary Khyber Pakhtunkhwa in Appeal No.1490/2019 decided on 16.01.2020, wherein it was held that;

" In addition to this the petitioner was prematurely transferred in sheer violation of Posting/ Transfer Policy notified by the Provincial Government".

It is pertinent to mention that this Hon'ble Tribunal further observed in an authoritative manner;

"Another funny thing that would expose high handedness, favouritism and mis-use of authority is notification dated 03.05.2019 and 17.07.2019"

- c) That the respondent No.5 frequent posting/ transfer suggest that he is securing desired posting by exerting political influence over the authorities which is a serious misconduct under E & D Rules 2011 which cannot be altogether ignored.

ATTESTED

13

- d) That the pre-mature transfer of the petitioner would adversely affect all the ongoing projects as referred to in Para No.7 initiated by the him.

It is pertinent to mention that the authority failed to specify justified reasons which prompted the premature transfer of the petitioner from the post of Director (BS-19) Agriculture Research (Merged Areas) ARI, Tarnab Peshawar to the post of Principle Research Officer (Food Technology) Agriculture Institute Tarnab Peshawar.

- e) That according to Para-5 of the Posting & Transfer Policy of the Government;

"All the concerned are requested to ensure that tenures of the concerned officers/officials are invariably mentioned in the summaries submitted to the competent authorities for Posting/ Transfer"

Petitioner-in-person


Dr. Barkat Ali Khan (Ph.D)

son of Akbar Ali Khan
R/o Agriculture Research Institute
Tarnab, Peshawar (Director (BS-19)
Agriculture, Research (Merged Area)
ARI, Tarnab, Peshawar

ATTESTED

CC To:

- 23-01-2020
- 1) Secretary, Agriculture Livestock & Co-operative Department, Government of Khyber Pakhtunkhwa Peshawar.
 - 2) Director General, Agriculture Research, Government of Khyber Pakhtunkhwa Peshawar.
 - 3) Fazli Wahab, Director Agriculture Research (Merged Areas), ARI Tarnab, Peshawar

No. 605

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Rs. Ps.

(12/1)
(64)

Received a registered addressed to [Signature] Date-Stamp [Stamp]

Initials of Receiving Officer [Signature] *Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for Rs. (in figures) [Signature] (in words) [Signature]

If insured.

Insurance fee Rs. [Signature] Ps. (in words) [Signature] Weight [Signature] Kilo Grams

Name and address of sender [Signature]

No. 606

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Rs. Ps.

Received a registered addressed to [Signature] Date-Stamp [Stamp]

Initials of Receiving Officer [Signature] *Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for Rs. (in figures) [Signature] (in words) [Signature]

If insured.

Insurance fee Rs. [Signature] Ps. (in words) [Signature] Weight [Signature] Kilo Grams

Name and address of sender [Signature]

No. 607

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Rs. Ps.

Received a registered addressed to [Signature] Date-Stamp [Stamp]

Initials of Receiving Officer [Signature] *Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for Rs. (in figures) [Signature] (in words) [Signature]

If insured.

Insurance fee Rs. [Signature] Ps. (in words) [Signature] Weight [Signature] Kilo Grams

Name and address of sender [Signature]

No. 608

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Rs. Ps.

Received a registered* addressed to [Signature] Date-Stamp [Stamp]

Initials of Receiving Officer [Signature] *Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary.

Insured for Rs. (in figures) [Signature] (in words) [Signature]

If insured.

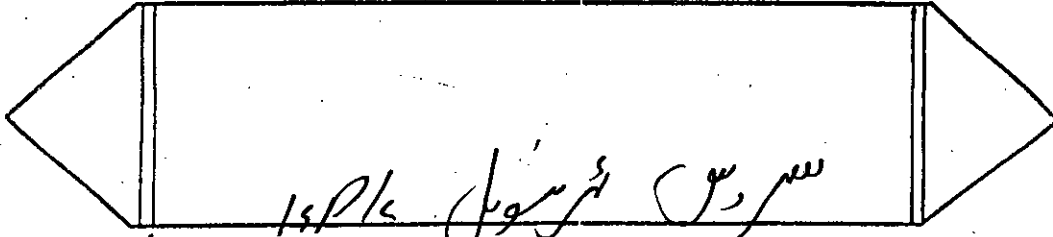
Insurance fee Rs. [Signature] Ps. (in words) [Signature] Weight [Signature] Kilo Grams

Name and address of sender [Signature]

ATTESTED

(56)

بعد الت



۲۲ مئی

Can etc ڈائریکٹ میں بنام

موزخہ
مقدمہ
دعویٰ
جرم

باعث تحریر آئندہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی و کل کارروائی متعلقہ
آن مقام کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز
وکیل صاحب کو راضی نامہ کرنے و تقرر ثالثہ فیصلہ برحلف دیئے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق
زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور منسوخی
نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ از بصورت ضرورت مقدمہ مذکور
کے کل یا جزوی کارروائی 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 اختیارات حاصل ہوں گے اور اس کا ساختہ
پرواختہ منظور قبول ہوگا۔ دوران مقدمہ میں جو خرچہ و ہرجانہ 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 اوکالت نامہ لکھ دیا کہ سند ہے۔

الرقوم _____ ماہ _____ ۲۰۲۰ء

ڈائریکٹریٹ

Accepted & accepted by Inayat Ullah
Ahsan PAK
hkm
(UK)

مقام کراچی

بعدالت حسرتوں کو وہ حسرتوں کو یہ سب کچھ



2020ء پنجاب

ڈاکٹر بریڈ کلی۔ بنام گورنمنٹ ہسپتال

مورخہ

مقدمہ

دعویٰ

جرم

باعث تحریر آنکہ

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

آن مقام کے لئے سروراجیہ کے لئے

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 و تقرر ثالث و فیصلہ پر حلف دیئے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور وصولی چیک و روپیہ ارضی دعویٰ اور درخواست ہر قسم کی تصدیق

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

اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار 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 پر داختم منظور و قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ 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۔

2020ء

05

ماہ

18

المرقوم

Accepted

Accepted

العہدہ گاہ العہدہ

کے لئے منظور ہے۔

مقام کسٹیا



Original

**BEFORE THE HON'BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. 3727-P/2020

Dr. Barkat Ali Khan.....**Appellant**

Versus

GOVERNMENT OF KHYBER PAKHTUNKHWA AND OTHERS
.....**Respondents**

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**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.**

SERVICE APPEAL NO. 3727-P/2020

Dr. Barkat Ali Khan **Appellant**

Versus

1. *Chief Minister through Chief Secretary Khyber Pakhtunkhwa*
2. *Chief Secretary, Khyber Pakhtunkhwa, Peshawar*
3. *Secretary, Agriculture, Livestock & Cooperative Department, Peshawar*
4. *The Director General Agriculture Research, Peshawar*
5. *Fazli Wahab, Director, Agricultural Research (Merged Areas), ARI, Tarnab, Peshawar*

..... **Respondents**

SUBJECT: REPLY ON BEHALF OF THE RESPONDENTS

Respectfully Sheweth:-

Preliminary Objections

- ✓ That the instant appeal is not maintainable in its present form and liable to be dismissed.
- ✓ That the appellant has no cause of action to file the instant appeal.
- ✓ That the appellant has no locus standi.
- ✓ That the appellant has deliberately concealed the important facts from this Hon`ble Tribunal.
- ✓ That the appeal is bad in its present form and may please be dismissed with cost.

ON FACTS: -

Para-1 No comments, it is in respect of proceedings of Hon`ble Tribunal.

Para-2 No comments, up to the extent that this para has nothing to do with the current transfer/posting of the appellant.

Para-3 It is submitted that para 3 of the appeal gives the impression that the officer (Respondent No. 5) is reluctant and being unwilling to relinquish the charge of the post of Director Agric. Research Merged Areas (ex FATA), but this is not in line with the facts, the appellant has created the false scenario and a negative image of Respondent No. 5 not only at the Provincial Secretarite level but also in the whole Research Department. It

is for the convenience of this Hon`ble Tribunal that at that time FATA wasn't properly merged in settled areas, therefore, Respondent No. 5 was ought to follow the instructions/directives of his immediate officer, the Secretary, Production and Livelihood Development Department, FATA Secretariat, as depicted clearly from letter No. 898/DARF, dated 12.11.2018 (**Annexure A**)

Para-4 Not admitted, hence denied. Respondent No. 5 cannot afford to create his image as portrayed by the appellant. He invited the attention of the Competent Authority to the current situation and also requested that he may please be allowed to relinquish the charge from the post of Director, Agric. Research, FATA, and report for duty at Agric. Research Station Buner (as depicted clearly from Annexure A). Similarly, respondent No. 5 was not using delaying tactics in the transfer of charge to the appellant, as his Competent Authority (the Secretary Production and Livelihood Development, FATA Secretariate) did not want to dislocate him from FATA, as being an experienced officer and directed him to continue to perform his services as Director of Directorate of Agric. Research FATA. Copy of letter No: SO(P&LDD)/F-S/Agri-Res/5-6/14/2608-14, dated 1.11.2018 is attached as **Annexure B** for the satisfaction of Hon`ble Tribunal.

Para-5 No comments up to the extent that the process of relinquishing and taking over of the charge was settled and the charge was shifted to the appellant properly.

Para-6 It is submitted for the convenience of Hon`ble Tribunal that both the positions are of BS-19 and are located at the same duty station, i.e., Agriculture Research Institute, Tarnab, Peshawar. The Government has launched several Agricultural Developmental and Research programs to uplift the livelihood of local communities in the Merged Areas (Erstwhile FATA), which need a field related specialized, proficient, skillful, enthusiastic, and capable officer of BS-19. It is clear that the appellant was not so competent and also was not specialized in the field, because the projects were running on the

Horticultural side and the appellate didn't have any know-how related to Horticulture. Later on, he got the chance as Director of Agriculture Research, Merged Areas. In such a gigantic task he proved to be inept, incompetent, and incapable due to his physical position and specialization. The Competent Authority after realizing such a situation made transfer/posting (which is under the jurisdiction of Government) of another officer in the best interest of public service. It is also pertinent to mention here that the post of Director Agriculture Research Merged Areas is not a tenure-based, rather it is performance-based, where the incumbent of the post has to lead a team of scientists for better implementation of research project throughout the seven merged districts and six subdivisions.

It is also pertinent to note here that the instant transfer/posting of the appellant was made in the best interest of public service and his ill health *viz a viz* requirements of the job description associated with the post **(Transfer/Posting proposal is placed at Annexure-C)**. The instant transfer/postings were aimed at the better response of the Directorate to the developmental needs of the agriculture sector of the Merged Areas and improvement in service delivery of the Directorate. As is evident from the proposal for instant transfer/postings initiated by the Director General, Agriculture Research (Respondent No.4), the appellant besides his ill health, is not specialized in the field and horticultural crops research, therefore, a suitable officer having field experience in agriculture research throughout Merged Areas was proposed. Mr. Fazli Wahab has 27 years of field research experience of horticulture crops while Dr. Barkat Ali Khan (the Appellant) has more than 28 years of experience in the lab. research on pesticide residues about biochemistry research and has no experience in horticulture and field crop husbandry.

Para-7 As mentioned in the above paras that transfer/posting is Government jurisdiction, the higher authorities realized the

appellant is a misfit to run the activities smoothly due to his handicapped position and lack of specialized know-how in the field of Horticulture and Field Crops. Therefore, where the progress of Government work is involved, the Government is empowered to make transfer/postings of suitable officers for the best delivery of public service and expediency. It is also pertinent to mention here that as per rules respondent No. 5 was eligible to hold the post of Director, Agric. Research Merged Areas.

Para-8 As a matter of fact, the developmental projects mentioned in the para were initiated by Mr. Fazli Wahab when he was Director Agri. Research Erstwhile FATA prior to Dr. Barkat Ali Khan (before November 2018). The claim of the appellant in this regard has no grounds and is merely baseless. **(Copy of the Merged Areas ADP 2018-19 is placed at Annexure-D as ready reference).**

Para-9 No comments, up to the extent that his review petition was sent to the administrative department for necessary consideration etc. The administrative department submitted a para wise reply to Section Officer-II, Chief Minister's Secretariate vide letter No. SOE(AD)3(3)2/2019/RW, dated 9th March 2020 **(Copy attached as annexure E).**

Para-10 As per standing instructions of the Government, charge assumption/relinquish has to be made within seven days but not later than 15 days, otherwise, the Government servant who does not obey the transfer/ posting orders are considered absent from duty. The explanation letter to the appellant is very much clear.

GROUND FOR REVIEW

Para-a Not admitted. The transfer/postings made in the best interest of public service doesn't mean sheer violation, favoritism, and misuse of authority. The transfer/postings notification dated 24.01.2020 is not violative as mentioned earlier, where the suffering of service delivering to public and government work

is involved, then it is the Government jurisdiction to make transfer/postings (irrespective of tenure completion) in the best interest of public service.

Para-b Not admitted, hence denied. The mentioned appeal has no relevance to the instant appeal and no violation and misuse of authority has occurred. The appellant was not capable and was physically misfit and handicapped. Therefore, where the Government feels incompetency in service delivery, transfer/postings are made and the government seeks a capable and fit person according to the requirement of the post.

Para-c Not accepted, hence denied. The transfer/postings of Respondent No. 5 were made in the best interest of public service. The appellant is misleading the Hon`ble Tribunal with such statements.

Para-d Not accepted, hence denied. The existence of the appellant on the said post will produce hurdles in service delivery which will also suffer the target achievements of the projects. As mentioned in the above para, where the suffering of government work is involved, the government then seeks an officer concerned, who is more specialized, proficient, skillful, enthusiastic, and capable. **Annexure-C is very much clear in this regard full justification for the transfer/postings is made herein.**


Para-e As mentioned in the above paras, where the government feels incompetence, transfer/posting is made as this is under the jurisdiction of Government, which would not expose high handedness, favoritism, and misuse of authority. Similarly, it is also not a one-man show, transfer/postings are routine activity and the proposal for transfer/postings passes through proper channel to the competent authority as per procedures enunciated in the Government Rules of Business. Similarly, as depicted from Hon`ble Tribunal order dated 05.05.2020, the appellant was using Government vehicles for private use,

confirming that he is making efforts for his own interest, not in public interest.

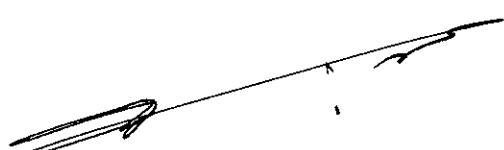
With prior permission of this Hon'ble Tribunal, necessary additional grounds and justifications will be provided at time of arguments.

It is therefore, humbly prayed that on acceptance of the above para-wise reply, the instant appeal of the appellant may kindly be dismissed with cost.

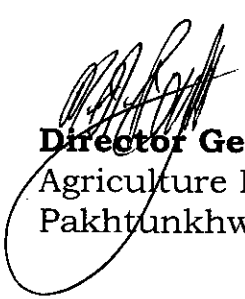
Respondent No. 1&2


Chief Secretary
Govt. of Khyber Pakhtunkhwa,
Peshawar


Respondent No. 3


Secretary
Agriculture Livestock &
Cooperative Department, Govt. of
Khyber Pakhtunkhwa, Peshawar

Respondent No. 4


Director General
Agriculture Research Khyber
Pakhtunkhwa, Peshawar

Respondent No. 5


Fazli Wahab
Director Agriculture Research
(Merged Areas), ARI, Tarnab,
Peshawar

7

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.**

SERVICE APPEAL NO. 3727-P/2020

Dr. Barkat Ali Khan **Appellant**

Versus

1. *Chief Minister through Chief Secretary Khyber Pakhtunkhwa*
2. *Chief Secretary, Khyber Pakhtunkhwa, Peshawar*
3. *Secretary, Agriculture, Livestock & Cooperative Department, Peshawar*
4. *The Director General Agriculture Research, Peshawar*
5. *Fazli Wahab, Director, Agricultural Research (Merged Areas), ARI, Tarnab, Peshawar*

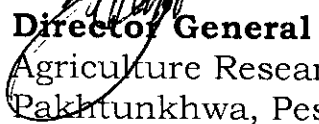
..... **Respondents**

AFFIDAVIT

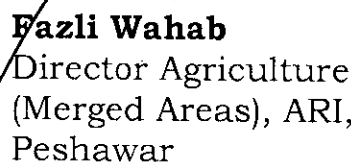
We the following respondents, do hereby solemnly affirm and declare on the oath that the contents of para-wise reply/comments are true and correct to the best of our knowledge and belief and that nothing has been concealed from this Hon`ble Tribunal.

On Behalf of Respondents

Respondent No. 4


Director General
Agriculture Research Khyber
Pakhtunkhwa, Peshawar

Respondent No. 5


Fazli Wahab
Director Agriculture Research
(Merged Areas), ARI, Tarnab,
Peshawar

8

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR.**

SERVICE APPEAL NO. 3727-P/2020

Dr. Barkat Ali Khan **Appellant**

Versus

1. *Chief Minister through Chief Secretary Khyber Pakhtunkhwa*
2. *Chief Secretary, Khyber Pakhtunkhwa, Peshawar*
3. *Secretary, Agriculture, Livestock & Cooperative Department, Peshawar*
4. *The Director General Agriculture Research, Peshawar*
5. *Fazli Wahab, Director, Agricultural Research (Merged Areas), ARI, Tarnab, Peshawar*

..... **Respondents**

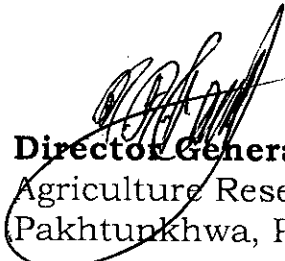
AUTHORITY

We the following respondents, do hereby authorize Mr. Touheed Iqbal (Asstt: Director, HQ) to appear on our behalf before the Hon`ble Tribunal in the above service appeal and also pursue the case on each and every date.

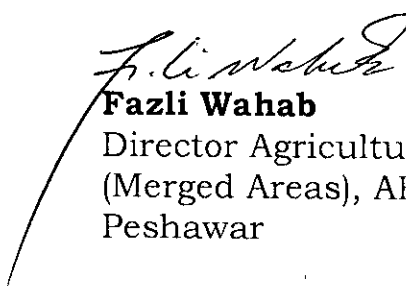
He is also authorized to submit all relevant documents in connection with the above case.

On Behalf of Respondents

Respondent No. 4


Director General
Agriculture Research Khyber
Pakhtunkhwa, Peshawar

Respondent No. 5


Fazli Wahab
Director Agriculture Research
(Merged Areas), ARI, Tarnab,
Peshawar



Directorate of Agricultural Research FATA
Agricultural Research Institute, Tarnab Peshawar

Email: darfata.ari@gmail.com

Phone #: 0092-91-2964191
Fax #: 0092-91-2964097

No. 898 /DARF;

Dated Tarnab the 12/11 2018

To

The Secretary
Production and Livelihood Development Department
FATA Secretariat, Peshawar

Subject: **POSTING/TRANSFER OF DIRECTOR AGRICULTURE RESEARCH FATA**
Dear Sir,

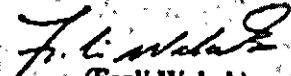
Kindly refer to Agriculture Department letter No.SOE(AD)3(3)2/2018/RW dated 09.11.2018, on the above noted subject (copy enclosed).

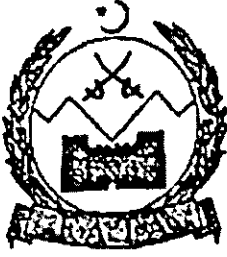
It is submitted that "Para 2" of the letter under reference gives an impression that the undersigned is reluctant to relinquish the charge of the post of Director Agriculture Research (FATA). As a matter of fact the undersigned is following the instructions of his immediate officer (the worthy Secretary P&LDD). These instructions have been communicated through letters (No.SO(P&LDD)/FS/Agri.Ext./4-1/18/2555-58 dated 24.10.2018 and No.SO(P&LDD)/FS/Agri. Res/5-6/14/2608-14 dated 01.11.2018).

2. Performance of duty as Director Agriculture Research FATA is made difficult by the above impression for the undersigned. A negative image has been created not only at the Provincial Secretariat level as well as throughout the Khyber Pakhtunkhwa Agriculture Research System (peers of the undersigned). Moreover, the undersigned has to continue his career amongst his peers, he cannot afford to create his image as portrayed by the impression. It is also pertinent to note that any research endeavor in any field is not possible without the support of ones colleagues.

3. Likewise, the targets set in the ADP for Agriculture Research in the coming Rabi season, have to be completed before 20th ^{November} September at the least. In the current scenario the undersigned cannot fully concentrate on the department's performance. Also staff at the tribal districts are at a fix, because of the uncertainty arising out of the prevailing scenario at the Directorate level. In order to achieve the ADP targets, this uncertainty has to be resolved at the earliest.

4. In view of the foregoing, it is requested that the undersigned may be allowed to relinquish the charge of the post of Director Agriculture Research FATA to report for duty at Agri. Research Station, Buner.


(Fazli Wahab)
Director Agri. Research FATA
Agril. Research Institute
Tarnab Peshawar

MOST IMMEDIATE

**RODUCTION & LIVELIHOOD DEVELOPMENT DEPARTMENT
FATA SECRETARIAT
WARSAK ROAD PESHAWAR**

No.SO (P&LDD)/FS/Agri-Res/5-6/14/2608-14
Dated 01-11-2018

The Secretary
Government of Khyber Pakhtunkhwa
Agriculture, Livestock and Cooperative Department
Peshawar

Subject: **POSTING / TRANSFER OF DIRECTOR AGRICULTURE RESEARCH FATA**
Dear Sir,

I am directed to refer to this department letter No.SO (P&LDD)/FS/ Agri-Ext/4-1/18/2555-58 dated 24-10-2018 on the above captioned subject (copy attached) and to enclose herewith a copy of the Director General Agriculture Research Khyber Pakhtunkhwa (so called) Notification No. 13495-99/Estt/DGAR dated 18-10-2018, whereby assumption of charge of Director Research FATA by Dr. Barkat Ali Khan has been notified.

2. It may be noted that the matter of transfer of Director Agriculture Research FATA has already been taken up with your office through this department above referred letter dated 24-10-2018 with the request that the officer (Mr. Fazle Wahab) may not be dislocated / pulled out of FATA as being an experienced officer, whose services are required for the smooth integration of Agriculture Research. Any abrupt change of the head of the directorate would not be desirable at this juncture from the administrative point of view as well.

3. It may also noted that all posts of Directorate of Agriculture Research FATA including that of the Director Research FATA are federal funded positions, which still are under the administrative control of Additional Chief Secretary/P&LDD FATA Secretariat. Necessary current budget for the financial year 2018-19 in respect of the Directorate of Agriculture Research FATA has also been funded/ released by the Finance Division, Govt: of Pakistan.

4. In view of the foregoing paras, it is requested that the Director General Agriculture Research Khyber Pakhtunkhwa may please be restrained to create unnecessary problems for the Government, which may attract negative publicity in the media. Moreover, he may also be directed to immediately withdraw his above referred Notification dated 18-10-2018 for being irregular and invalid ab initio.

Yours faithfully

(Dr. Abdul Manan)
Section Officer-II

Copy to:

1. The AGPR, Sub-office Peshawar for information and necessary action.
2. The Director General Agriculture Research Khyber Pakhtunkhwa for information and necessary action.
3. Mr. Fazle Wahab, Director Agriculture Research FATA w.r. to his letter No.830/DARF; dated 30-10-2018 with the direction to continue performing his services as the Director of Directorate of Agriculture Research FATA.
4. PS to the Additional Chief Secretary FATA for information
5. PS to Secretary Finance FATA with the request to issue necessary instructions to the AGPR, Sub-Office Peshawar and other account offices concerned for not entertaining claims/bills for payment etc. including the said unauthorized officer's salary bill submitted with the approval or on the authority of Dr. Barkat Ali Khan.
6. PS to Secretary Production and Livelihood Development Department FATA for information


Section Officer-II



DIRECTORATE GENERAL AGRICULTURE RESEARCH
KHYBER PAKHTUNKHWA, 25130, PESHAWAR

☎ 091-9221271

web: www.agrires.kp.gov.pk ☎ 091-9221270

E-mail: dgragriresearch@gmail.com



No 7034 /Estt/DGAR;

Dated Peshawar the 19/12 /2019

To

The Section Officer (Estt)
Government of Khyber Pakhtunkhwa
Agriculture, Livestock and Coop: Department
Peshawar.

Subject: **TRANSFER AND POSTING PROPOSAL**
Memo:

Please refer to your letter No. SOE(AD)3(3)2/2019/RW; dated 19.12.2019, on the subject noted above. The transfers/postings of the following officers of Agriculture Department, Research Wing, Khyber Pakhtunkhwa are hereby re-submitted to clarify the observations made by the Secretary Establishment, Government of Khyber Pakhtunkhwa, Peshawar.

S.No.	Name of officer	From	To	Remarks/Tenure
1.	Dr. Abdul Bari, Director (BS-19)	Director, Agricultural Research Station, Amnawar Buner.	Principal Research Officer (Oilseed), Agricultural Research Institute, Tarnab.	Vice Sr. No. 02. . Tenure period from 28.05.2019 till to date. The activities of the Oilseed are suffering badly and require a capable officer, the proposed officer is capable.
2.	Mr. Muhammad Shahsawar Khan, (BS-19)	Principal Research Officer (Oilseed), Agricultural Research Institute, Tarnab, Peshawar.	Principal Research Officer (Cereal), Agricultural Research Institute, D.I.Khan	Vice Sr. No. 07. Tenure period from 01.06.2011 till to date. The tenure period at the Institute is about 09 years and 06 months.
3.	Mr. Muhammad Sajjad (BS-19)	Principal Research Officer (S&PN), Agricultural Research Station, Baffa, Mansehra.	Director, Agricultural Research Station, Amnawar, Buner	Vice Sr. No. 01. Tenure period from 09.10.2018 till to date. The officer concerned is relates to District Buner and the activities of the Station will be run in better position.
4.	Dr. Barkat Ali Khan, Director (BS-19)	Director Agricultural Research (Merged Area), ARI, Tarnab, Peshawar.	Principal Research Officer (Food Technology), Agri.Institute, Tarnab Peshawar..	Vice Sr. No. 05. Tenure period from 09.10.2018 till to date. The officer concerned is not in better position as Director to perform his responsibilities well due to his ill health as well as huge responsibilities of new merged districts.
5.	Mr. Fazli Wahab, (BS-19)	Principal Research Officer (Food Technology), Agril Res. Instt: Tarnab Peshawar..	Director Agricultural Research (Merged Area), ARI, Tarnab, Peshawar.	Vice Sr. No. 04. Tenure period from 01.10.2019. He has sufficient experience and capable in the performing of responsibilities in the merged districts and at present there is no suitable alternate except the proposed officer, to run the developmental and non developmental activities of merged districts efficiently



12

[Signature]

**DIRECTORATE GENERAL AGRICULTURE RESEARCH
KHYBER PAKHTUNKHWA, 25130, PESHAWAR**

☎ 091-9221271 web: www.agrires.kp.gov.pk ☎ 091- 9221270

E-mail: dgragriresearch@gmail.com

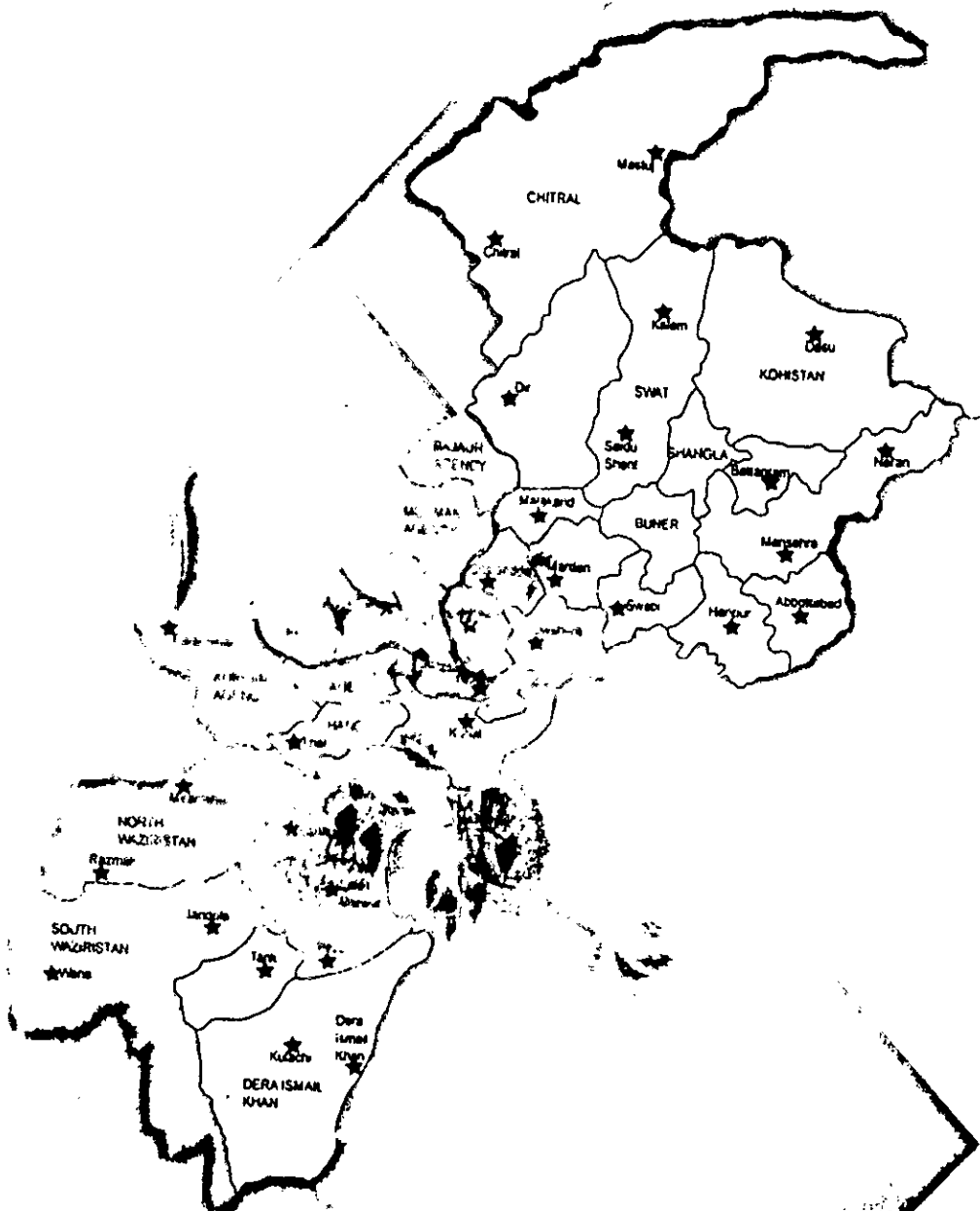


6.	Mr. Abdul Majeed, Director (BS-19)	Director, Agricultural Research Institute, D.I.Khan	Principal Research Officer (Food Technology), ARI, D.I.Khan	Against an existing vacancy. Tenure period from 2015 till to date Completed the tenure at the Institute as well as on the post of Director.
7.	Mr. Inayat Hussain Shah, (BS-19)	Principal Research Officer (Cereal), Agricultural Research Institute, D.I.Khan	Director, Agricultural Research Institute, D.I.Khan	Vice Sr. No. 06. Tenure period from 09.10.2018 till to date. He has sufficient experience in management skills and technical expertise. The activities of the Institute are suffering badly and require a capable Director, thus the officer is proposed as Director.
8.	Mr. Ahmad Said, (BS-19)	Director, Cereal Crops Research Institute, Pirsabak, Nowshera.	Principal Research Officer (Horticulture), Agricultural Research Institute, Mingora, Swat	Against an existing vacancy. Waiting for posting since 01.11.2019 in pursuance of Notification. SOE(AD)3(3)2/RW; dated 01.11.2019.

In light of the above scenario, it is requested to please approve the transfers/postings proposal of the above named officers for the smooth running of research activities in various Institute/Station in the best interest of public service.

[Signature]
DIRECTOR GENERAL

MERGED AREAS ANNUAL DEVELOPMENT PROGRAMME 2018-19



**PLANNING & DEVELOPMENT DEPARTMENT
MERGED AREAS SECRETARIAT PESHAWAR**

AGRICULTURE RESEARCH

Ongoing Schemes

OR : AGRICULTURE RESEARCH

(Rs. in Million)

ADP S.No.	Code, Name of the Scheme, (Status) with Forum and Date of Last Approval	Approved/Est. Cost/ TS Cost				Local Component					Throw Forward Beyond 2018-19
		Total	Local	TS	Foreign Assistance With Source	Expdtr. upto June 2017	Estimated Expdtr: 2017-18	Provision for 2018-19			
								Capital	Revenue	Total	
1	2	3	4	5	6	7	8	9	10	11	12
ALL TRIBAL DISTRICTS											
721	170349 - Strengthening of Existing Agriculture Research Facilities in FATA. (With Focus on Restoration of Mir Jamal GPU at Kurram Agency) (R)	41.629	90.000				2.491	15.000	35.000	50.000	37.500
		90.000									
722	170350 - Promotion of New Fruit Cultivars in FATA. (R)	16.701	30.000				0.611		17.900	17.900	11.489
		30.000									
723	170351 - Introduction of Wheat Seed Certification in FATA. (A) /FDWP /20-09-2017	10.327	10.327				2.966		3.500	3.500	3.861
District Sub Total		130.327	130.327	0.000	0.000	0.000	6.068	15.000	56.400	71.400	52.859
Total OnGoing Scheme		130.327	130.327	0.000	0.000	0.000	6.068	15.000	56.400	71.400	52.859

New

AGRICULTURE RESEARCH

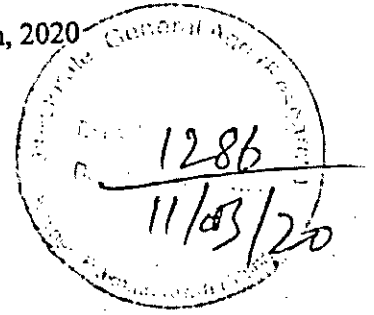
(Rs. in Million)

Code, Name of the Scheme, (Status) with Forum and Date of Last Approval	Approved/Est. Cost/ TS Cost				Local Component					Throw Forward Beyond 2018-19	
	Total	Local	TS	Foreign Assistance With Source	Expdtr. upto June 2017	Estimated Expdtr: 2017-18	Provision for 2018-19				
							Capital	Revenue	Total		
2	3	4	5	6	7	8	9	10	11	12	
ALL TRIBAL DISTRICTS											
180014 - Establishment of Soil and Water Testing Labs. in Tribal Districts. (B) //	75.000	75.000					15.000	10.000	25.000	50.000	
180015 - Adaptive Research on vegetables and cereal hybrids and OPVs in Tribal Districts. (B) //	16.800	16.800						5.600	5.600	11.200	
District Sub Total	91.800	91.800	0.000	0.000	0.000	0.000	15.000	15.600	30.600	61.200	
Total New Fesh	91.800	91.800	0.000	0.000	0.000	0.000	15.000	15.600	30.600	61.200	
Total (New & Ongoing) Schemes AGRICULTURE RESEARCH	222.127	222.127	0.000	0.000	0.000	6.068	30.000	72.000	102.000	114.059	



GOVERNMENT OF KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE
DEPARTMENT

NO.SOE(AD)3(3)2/2019/RW
Dated Peshawar, the 9th March, 2020



To

The Section Officer-II,
Chief Minister's Secretariat,
Government of Khyber Pakhtunkhwa, Peshawar.

SUBJECT: - REVIEW PETITION AGAINST THE IMPUGNED TRANSFER ORDER/NOTIFICATION NO. SOE(AD)3(3)2/2019/RW DATED 24.01.2020.

I am directed to refer to your office letter No. SO-II/CMS/KP/2-1/2020/1468 dated 26.02.2020 on the subject noted above and to state that para-wise reply in light of the report of Director General, Agriculture Research, Khyber Pakhtunkhwa are as under:-

1. Dr. Barkat Ali Khan, Ex-Director Agriculture Research (Merged Areas), who has been transferred vide Agriculture Department Notification No. SOE(AD) 3(3)2/2019/RW dated 24/01/2020, has not yet obeyed the transfer order till date.
2. He has submitted the instant review petition on 25/01/2020 directly to the honorable Chief Minister, bypassing official hierarchy in violation of all norms and rules.
3. The instant review petition submitted to the honorable Chief Minister is not clear and contains irrelevant information
4. Ordinarily, an application against any order of the Government by employees are submitted through proper channel. As a matter of fact, the instant review petition is copy/paste of service appeal submitted to the Service Tribunal by Dr. Barkat Ali Khan, which has been returned by the Hon'ble Service Tribunal with remarks being pre-mature (copy attached).
5. The information given in "Para 1 to 4" of the instant review petition has nothing to do with the transfer/posting of the appellant (Dr. Barkat Ali Khan). These paras having nothing to do with his current transfer/posting
6. In "Para5" of the review petition of the appellant, it has been pointed out that the appellant was transferred from the post of Director Agriculture Research Merged Areas, (BPS-19) to Principal Research Officer (BPS-19) before completion of his tenure. In this regard it is stated that both the posts are at same duty station i.e. Agricultural Research Institute, Tarnab Peshawar, secondly the appellant has been serving for more than 27 years at ARI, Tarnab, thirdly the post of Director Agriculture Research Merged Areas, is not a tenure based post, rather it is a performance based post, where the incumbent of the post has to lead a team of scientists and implement the research projects through out the seven merged districts and six sub-divisions.
7. As Dr. Barkat Ali Khan, has been suffering from multiple physical disorders and having little field experience pertaining to the horticultural and field crops research, he was transferred to a position, where travelling and other physical activities are minimum which will have minimum burden on his already worse health conditions.

8. Again "Para 6" of the instant review petition contains irrelevant information. All transfers orders of Mr. Fazli Wahab (BPS-19) were made in public interest.
9. "Para 7" of the instant review petition pertains to implementation of various developmental schemes. In this regard it is submitted that during the current year, spending/expenditure in these projects till 31-12-2019 was pathetic i.e. 3.5 %. Likewise targets of these projects were lagging behind. This was one of the reasons, that Dr. Barkat Ali Khan, who could not respond to multiple challenges posed by implementations of these developmental projects in merged areas and also government focus on the development of these neglected areas, due to his ill-health.
10. In light of the foregoing, following submissions are made for the consideration of the competent authority;
- As Dr. Barkat Ali Khan (BPS-19) has not obeyed the transfer order till date (more than a month).
 - The instant review petition submitted directly to the honorable Chief Minister does not come under the "Departmental Appeal" as per Service Tribunal Act, 1974. Secondly Dr. Barkat Ali Khan has bypassed the official hierarchy of the Government.
 - The instant review petition is without legal grounds and plea is not maintainable.

Encl: As above.

Endst. of even No. & Date.

Copy to the:

- The Director General, Agriculture Research, Khyber Pakhtunkhwa, Peshawar.
- P.S to Secretary Agriculture department.
- PA to Deputy Secretary (Admn) Agriculture Department.
- Master file.

DG ARK
ICC

11/03/2020

11/03/2020

09/03/22
SECTION OFFICER-ESTT:
AGRICULTURE DEPARTMENT.

09/03/22
SECTION OFFICER-ESTT:
AGRICULTURE DEPARTMENT.

BEFORE THE HON`BLE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 3727-P/2020

Dr. Barkat Ali Khan.....**Appellant**

Versus

GOVERNMENT OF KHYBER PAKHTUNKHWA AND OTHERS

.....**Respondents**

SUBJECT: APPLICATION FOR VACATION OF SUSPENSION OF
TRANSFER ORDER DATED 24.01.2020

Respectfully Sheweth:-

It is humbly submitted that the Government of Khyber Pakhtunkhwa, Agriculture Department issued Notification No. SO(AD)3(3)/2019/RW dated 24.01.2020 (Copy attached as **F/A**) wherein transfer and posting of Dr. Barkat Ali Khan (BS-19) and Mr. Fazli Wahab (BS-19) were made in the interest of public service. In this regards following submissions are made for consideration of the Hon`ble Tribunal;

Para-1 No comments, it is in respect of proceedings of the Hon`ble Tribunal.

Para-2 No comments. However, reply of the main appeal may kindly be considered as part of this reply.

Para-3 The order passed by the Honourable Tribunal on 05.05.2020 (**F/B**) for suspension of operation of the impugned transfer/posting order has created an administrative vacuum and hindered the progress of the Directorate. Since Mr. Fazli Wahab, the incumbent Director Agriculture Research (Merged Areas) has been stopped from performing duties as Director Agriculture Research (Merged Areas), all physical and financial progress has been halted. Similarly, for the convenience of Hon`ble Tribunal it is stated that we are in the last quarter of the current financial year and year closing is just around the corner, any change at this juncture will adversely affect the Directorate's physical and financial progress and government's resolve to revitalize the livelihoods of the militancy hit farming communities of the Merged Areas (Erstwhile FATA). Therefore, keeping in view the above facts in consideration the operations of the impugned order dated may please be refunfunctional till final decision.

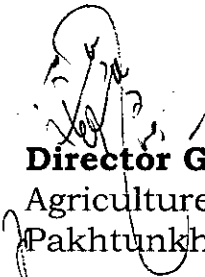
Para-4 The balance of convenience does not favour the appellant (Dr. Barkat Ali Khan), rather it favours Mr. Fazli Wahab because **i).** the appellant was misusing project resources like vehicles and POL etc as depicted from the order sheet of this Hon`ble Tribunal dated 05.05.2020, **ii).** the appellant was not capable

and was physically misfit and handicapped which produce hurdles in service delivery and also suffer the target achievements of the projects and **iii**).where the Government feels incompetence, then it is the Government jurisdiction to make transfer/postings (irrespective of tenure completion) in the best interest of public service, which would not expose high handedness, favoritism, and misuse of authority. Similarly, it is also not a one-man show, transfer/postings are routine activity. The incumbent Director Agriculture Research (Merged Areas) who is currently responsible for running the affairs of the Directorate. In this regard a recent notification of the Agriculture Department, Govt. of Khyber Pakhtunkhwa is presented as evidence wherein an important inquiry has been entrusted to Mr. Fazli Wahab, the incumbent Director Agriculture Research (Merged Areas). It is evident from the notification that Mr. Fazli Wahab, is currently the officer incharge of the affairs of the Directorate of Agriculture Research (Merged Areas). (Notification No. SOAH(AD)4(16)/2018/Vol-VIII dated 30.04.2020 copy attached as **F/C**).

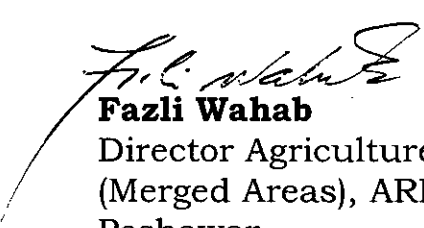
In view of the foregoing, it is humbly prayed that the suspension of operations of the impugned transfer/posting Notification may please be vacated in the best interest of public service in order to enable the Agriculture Research System to function smoothly till the final outcome of the instant Service Appeal.

ON BEHALF OF RESPONDENTS

Respondent No. 4


Director General
Agriculture Research Khyber
Pakhtunkhwa, Peshawar

Respondent No. 5


Fazli Wahab
Director Agriculture Research
(Merged Areas), ARI, Tarnab,
Peshawar



GOVERNMENT OF KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE
DEPARTMENT

Dated Peshawar, the 24th January, 2020

NOTIFICATION

NO. SOE(AD)3(3)2/2019 /RW:-

The Competent Authority is pleased to order the posting/transfers of the following officers of Agriculture Research Wing of this Department with immediate effect in the interest of public service:-

Sr. No.	Name Of Officers	FROM	TO
1.	Dr. Barkat Ali Khan, Director (BS-19)	Director Agricultural Research (Merged Area), ARI, Tarnab, Peshawar.	Principal Research Officer (Food Technology), Agri. Institute, Tarnab Peshawar. Vice No. 02.
2.	Mr. Fazli Wahab, (BS-19)	Principal Research Officer (Food Technology), Agri Res. Instt: Tarnab Peshawar.	Director Agricultural Research (Merged Area), ARI, Tarnab, Peshawar. Vice No. 01.

SD/XXX
SECRETARY AGRICULTURE.

Indst. of even No. & Date.

Copy to the:-

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Director General, Agriculture Research, Khyber Pakhtunkhwa Peshawar.
3. The Senior Director, Agriculture Research Institute, Tarnab, Peshawar.
4. PS to Minister Agriculture Department, Khyber Pakhtunkhwa, Peshawar.
5. PS to Secretary Agriculture Department, Khyber Pakhtunkhwa, Peshawar.
6. PA to Deputy Secretary (Admn.), Agriculture Department, Khyber Pakhtunkhwa, Peshawar.
7. Officers concerned.
8. Master file.

SECTION OFFICER-ESTT:
AGRICULTURE DEPARTMENT.

SD/MAD R.
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GOVERNMENT OF KHYBER PAKHTUNKHWA
AGRICULTURE LIVESTOCK & COOPERATIVE
DEPARTMENT

Dated Peshawar, the 24th January, 2020

NOTIFICATION

No.SOE(AD)3(3)2/2019/RW:- The Competent Authority is pleased to order the transfer/ posting of the following officers of Agriculture Research Wing of Agriculture Department, Khyber Pakhtunkhwa, in the interest of public service with immediate effect:-

S.No	Name of officers	From	To
1	Dr. Barkat Ali Khan Director (BS-19)	Director Agriculture Research (Merged Area), ARI, Tarnab Peshawar	Principle Research Officer (Food Technology) Agri Institute Tarnab, Peshawar Vice No.02.
2	Mr. Fazli Wahab BS-19	Principle Research Officer (Food Technology) Agri Institute Tarnab, Peshawar	Director Agriculture Research (Merged Area), ARI, Tarnab Peshawar Vice No.1

SD/xxx
Secretary Agriculture

Endst of even No. & date.

Copy to the:

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The Director General, Agriculture Research Department, Khyber Pakhtunkhwa Peshawar.
3. The Senior Director Agriculture Research Department, Khyber Pakhtunkhwa Peshawar.
4. PS to Minister Agriculture Department, Khyber Pakhtunkhwa, Peshawar.
5. PS to Secretary Agriculture Department, Khyber Pakhtunkhwa, Peshawar.
6. PS to DS (Admn.) Agriculture Department, Khyber Pakhtunkhwa, Peshawar.
7. Officers concerned.
8. Master file.

SECTION OFFICER-ESTT:
AGRICULTURE DEPARTMENT.

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F/B

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK, PESHAWAR

Service Appeal No. 3727 /2020

Khyber Pakhtunkhwa
Service Tribunal

3113

27-4-2020

Dr. Barkat Ali Khan son of Akbar Ali Khan
R/o Agriculture Research Institute Tarnab, Peshawar
(Director (BS-19) Agriculture, Research (Merged Area) ARI,
Tarnab, Peshawar Appellant

Versus

- 1) Chief Minister through Chief Secretary Khyber Pakhtunkhwa Peshawar.
- 2) Chief Secretary, Government of Khyber Pakhtunkhwa Peshawar.
- 3) Secretary, Agriculture Livestock & Co-operative Department, Government of Khyber Pakhtunkhwa Peshawar.
- 4) Director General, Agriculture Research, Government of Khyber Pakhtunkhwa Peshawar.
- 5) Fazli Wahab, Director Agriculture Research (Merged Areas), ARI Tarnab, Peshawar.

..... Respondents

Filed to-day
Registrar
27/4/2020

Appeal u/s 4 of the K.P Service Tribunal Act, 1974 r/w Clause i), ii), iv), xiv) of Posting/ Transfer Policy of the Provincial Government against the impugned Transfer Order/Notification Reference No. SOE (AD)3(3)2/2019/RW: dated 24.01.2020 whereby the appellant was prematurely transferred from the post of Director Agriculture, Research (Merged Areas) ARI, Tarnab, Peshawar to Principle

ATTENDED
Khyber Pakhtunkhwa
Service Tribunal
Peshawar

05.05.2020

Learned counsel for the appellant present. Preliminary arguments heard.

The appellant has filed the present service appeal being aggrieved against his transfer from the post of Director Agriculture Research (Merged Area), ARI, Tarnab Peshawar to the post of Principal Research Officer (Food Technology) Agri Institute Tarnab, Peshawar and posting of Mr. Fazli Wahab (Private respondent No.5) as Director Agriculture Research (Merged Area), ARI, Tarnab Peshawar, vide order dated 24.01.2020.

Both the posts of Director Agriculture Research (Merged Area) and Principal Research Officer (Food Technology) mentioned above are located at one and the same station. Learned counsel for the appellant however contended that the impugned transfer/posting order is premature, politically motivated and was issued just to accommodate the blue eyed person to the post of Director Agriculture Research (Merged Area), ARI, Tarnab Peshawar.

In view of the submissions made by the learned counsel for the appellant, the present service appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to the respondents for written reply/comments.

Application for interim relief is also annexed with the memo of service appeal. Notice of the same be also issued to the respondents for the date fixed.

Till the next date fixed, the operation of the impugned transfer/posting order shall remain suspended, subject to the condition of handing over of Government Vehicles (particulars described in memo of Explanation No.4912-13/Estt/DGAR dated

05.05.2020
ATTESTED
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Appellant Deposited
Security & Process Fee
ATTESTED

06.04.2020) by the appellant to the higher authority/Director General Agricultural Research Khyber Pakhtunkhwa Peshawar for safe parking/safe custody in accordance with law, in view of its reported misuse, by private persons, as mentioned in the memo of Explanation mentioned above.

To come up for written reply/comments on 18.05.2020 before S.B.


Member

Date 6-5-20
No. 3727/20
C.
U.
T.
P.
Da. 6-5-2020
Y.
7



GOVERNMENT OF KHYBER PAKHTUNKHWA
AGRICULTURE, LIVESTOCK AND COOPERATIVES
DEPARTMENT, PESHAWAR



Dated Peshawar the 30th April, 2020

NOTIFICATION

No. SOAH (AD)4(16)/2018/Vol-VIII : In pursuance of the Director General, Agriculture Extension, Khyber Pakhtunkhwa letter No. P & D/58527/DGAE dated 09.04.2020 (copy attached), regarding the issue of purchase of un-registered potato seeds by the Ex-District Officer Agriculture South Waziristan, the Competent Authority is pleased to constitute the following departmental Inquiry Committee to ascertain the actual position and submit report in the above referred issue with the TORs as under:

1. Mr. Fazal Wahab, Director Agriculture (R), NMA, ARI, Tarnab, Peshawar Chairman
2. Mr. Hafiz Farhad, Dy. Director Horticulture, o/o DGAE, Khyber Pakhtunkhwa Member

TORs:

- i. To examine the procurement process of Potato Seeds as to whether the purchases had been made under regular fund or ADP scheme as per laid down procedure or otherwise.
- ii. To examine and check all stock of Potato Seeds in hand and used stock with complete list of farmers and to ascertain that seed has been procured from FSC & RD registered source having tags etc.
- iii. To submit findings and fix responsibility for negligence in discharge of duties.
- iv. Submit report within 30 days.

Sd/XX

(SECRETARY)

Government of Khyber Pakhtunkhwa
Agriculture, Livestock, Fisheries &
Cooperatives Department

No. SOAH (AD)4(16)/2018/Vol-VIII

Dated Peshawar the 30th April, 2020

Copy forwarded to:

1. The Director General Agriculture Extension, Khyber Pakhtunkhwa, Peshawar with the direction to facilitate the committee and provide all necessary assistance/relevant documents to the Committee.
2. The Director General, Agriculture Research, Khyber Pakhtunkhwa, Peshawar.
3. All concerned members of the Committee.
4. P.S to Minister for Agriculture, Livestock, Fisheries & Cooperatives Department, Khyber Pakhtunkhwa, Peshawar.
5. P.S to Secretary Agriculture, Livestock, Fisheries & Cooperatives Department, Khyber Pakhtunkhwa Peshawar.
6. P.A to Deputy Secretary-II, Agriculture, Livestock, Fisheries & Cooperatives Department, Khyber Pakhtunkhwa Peshawar.
7. Master File.

Put up
1/2
J

SECTION OFFICER (AGRI.)
Phone # 091-9211069

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK.

PESHAWAR.

S.A.No.3727-P/2020

Dr. Barkat Ali Khan Appellant

Versus

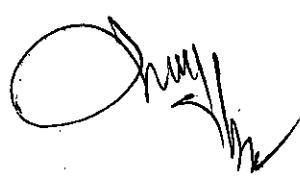
Chief Minister through Chief Secretary Khyber Pakhtunkhwa
Peshawar others..... Respondents

I N D E X

S.No.	Description of documents.	Annexure	Pages.
1.	Rejoinder		1-8
2.	Affidavit.		9
3.	Reply to the application.		10-11
4.	Affidavit.		12
5.	Copy of seniority list	R/1	13-17
6.	Copy certificate of merit	R/2	18
7.	Copy Ph.D degree	R/3	19
8.	Copy letter addressed by appellant to D.G. Agriculture for compliance of court verdict and parking the vehicle in garage	R/4-R/5	20-21
9.	Copy letter dated 14.05.2020 for compliance of court order.	R/6	22

Appellant

Through


Inayat Ullah Khan
Advocate High Court
LL.M (U.K)

Dated: 30.05.2020

BEFORE THE PROVINCIAL SERVICE TRIBUNAL, KPK.
PESHAWAR.

S.A.No.3727-P/2020

Dr. Barkat Ali Khan Appellant

Versus

Chief Minister through Chief Secretary Khyber Pakhtunkhwa
Peshawar others..... Respondents

REJOINDER ON BEHALF OF APPELLANT
WITH REGARD TO THE PARA-WISE
COMMENTS SUBMITTED BY
RESPONDENTS NO.1 TO 5.

Respectfully Sheweth;

Before responding to the preliminary objections I would like to bring some facts on record viz-a-viz respondents' reply for convenience of this Hon'ble Tribunal.

Fazal Wahab, respondent No.5, earlier remained as Director on the post in controversy for a period of two years in his own pay and scale (BPS-18) has prepared only five developmental schemes worth 168.45 million while the appellant Dr.Barkat Ali in eleven months prepared eight developmental schemes worth 711.36 million, which shows the competency, administrative and developmental skills of the appellant for uplifting the status of poor farmers of the tribal areas in agriculture field.

It is pertinent to mention that in agriculture department there is a combined seniority list of the officers from BPS-17 to 20. On vacation of higher post the senior most officer is promoted irrespective of his specialization. **The post of Director Agriculture Research Merged Areas, FATA ARI Tarnab, Peshawar is purely an administrative post.** Needless to say that the appellant having rich experience both in horticulture and other disciplines and also having the Ph.D degree indicates his superior qualifications viz-a-viz the qualifications of respondent No.5 who is simply M.Sc (Hons), hence not only on merit but on the basis of seniority and the fact that the appellant has not completed his tenure, hence the impugned transfer order dated 24.01.2020 is a nullity in terms of the mandatory provisions of posting and transfer policy made by the provincial government.

Reply Preliminary objections:

- 1) Objection No.1 legally speaking is incorrect, hence denied.
- 2) Objection No.2 is incorrect, hence denied. The appellant has been prematurely transferred and in this regard facts have been detailed in the main appeal, hence valid cause of action accrued in his favour therefore, the impugned premature transfer order dated 24.01.2020 was suspended by this Hon'ble Tribunal.
- 3) Objection No.3 is incorrect, hence denied. Sufficient reply has been furnished in para No.2 above.
- 4) Objection No.4 is incorrect, hence denied. The real facts were brought by the appellant in his appeal, therefore, on merits the impugned order was suspended by this Hon'ble Tribunal.

- 5) Objection No.5 is incorrect, hence denied. Nothing has been brought on record to justify all the preliminary objections which are frivolous in nature just to frustrate the main appeal.

REPLY ON FACTS:

- 1) Para-1 needs no reply.
- 2) Para-2 has been admitted because it is settled principle of law that evasive denial amounts to admission.
- 3) Para-3 has been wrongly set up by the respondent No.5, in fact all the relevant details along with documentary proofs have been duly annexed with the main appeal, hence, it becomes abundantly clear that respondent No.5 being the blue-eyed of the official respondents got more than five frequent posting transfer orders in his favour within a short span of 8 to 9 months, which speaks volumes of malafide on the part of respondent No.5 and official respondents.

It is pertinent to mention that after hectic efforts made by the official respondents Fazal Wahab final finally relinquished the charge of the post of Director Agriculture Research Merged Areas, FATA ARI Tarnab, Peshawar.

- 4) Para No.4 is incorrect, hence denied. Sufficient reply has been given in para No.3 above.
- 5) Para No.5 is incorrect, hence denied.
- 6) Para No.6 is incorrect, hence denied. With regard to para No.6 it is submitted that since both the positions are located at the same station then what prompted the authority to prematurely transferred the appellant from the post of Director Agriculture Research Merged Areas, FATA ARI Tarnab, Peshawar to the post of Principal Research Officer ARI, Tarnab, Peshawar. The