

10.10.2019


Due to official tour of Hon'ble Members to Camp Court Swat, the instant matter is adjourned to 13.12.2019 for the same.

  
Reader

13.12.2019

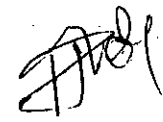
Lawyers are on strike as per the decision of All Pakistan Joint Lawyers Action Committee. Adjourn. To come up for further proceedings/arguments on 19.02.2020 before D.B

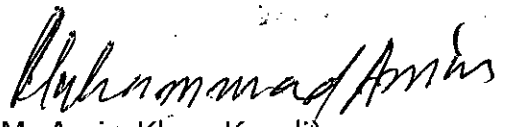
  
Member

  
Member

19.02.2020

Appellant alongwith his counsel Mr. Mir Zaman advocate present. Mr. Riaz Paindakhel learned Assistant AG for the respondents present. Learned counsel for the appellant stated at the bar that the grievance of the appellant has been redressed, therefore as per instruction of his client he want to withdrawal the present service appeal. In this regard signature of learned counsel for the appellant is obtained in the margin of order sheet. A request of the learned counsel for the appellant appear to be genuine. As such the present service appeal is dismissed as withdrawn. No order as to costs. File be consigned to the record room.

  
(Hussain Shah)  
Member

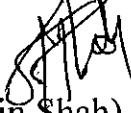
  
(M. Amin Khan Kundi)  
Member


Announced  
19.02.2020

*Sir, I want to withdraw the instant appeal.*  
M  
19/02/2020

24.09.2019


Counsel for the appellant present. Mr. Riaz Ahmad Paindakheil, Assistant AG alongwith M/S Jalal-ud-Din, Agronomist and Asad-ud-Din Asif Jan, Superintendent on behalf of official respondents No. 1 to 3 and private respondent No. 4 in person present. Learned counsel for the appellant submitted rejoinder which is placed on record. Learned counsel for the appellant also requested for adjournment for arguments. Adjourned to 11.10.2019 for arguments before D.B.

  
(Hussain Shah)  
Member

  
(M. Amin Khan Kundi)  
Member

01.10.2019

Appellant absent. Learned counsel for the appellant absent. Private respondent No. ~~1~~ present. Mr. Zia Ullah learned Deputy District Attorney alongwith Jalal ud Din Agronomist and Asif Ud Din Asif Jahan for official respondents present. Junior to counsel for the appellant present and seeks adjournment. Private respondent No. ~~1~~ showed his reservations. Being a posting transfer case, adjourned on the payment of cost of Rs.3000/- to be paid by the appellant to private respondent No. ~~1~~. Last opportunity is granted. To come up for arguments on 10.10.2019 before D.B.

  
Member

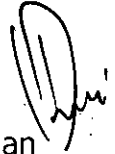
  
Member

15.07.2019

Junior to counsel for the appellant and Mr. Muhammad Riaz Khan Paindakhel, Asstt. AG alongwith Jalalud Din, Agronomist and Asadud Din Superintendent for the respondents No. 1 to 3 present. Nemo. for respondent No. 4.

Representatives of respondents No. 1 to 3 request for adjournment. Fresh notice be issued to respondent No. 4. Last opportunity granted. To come up for written reply/comments on 30.07.2019 before S.B.

Chairman

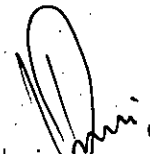


30.07.2019

Counsel for the appellant, Mr. Usman Ghani, District Attorney alongwith Jalalud Din, Agronomist and Asadud Din Asif Jan, Supdt for respondents no. 1 to 3 and private respondent no.4 in person present.

Respondent no.4 states that he would rely on the reply/comments of respondent no.1 to 3. On the other hand, the said respondents have again failed to submit the requisite reply. The matter is, therefore, posted for arguments before D.B on 24.09.2019.

Chairman



17.06.2019

Counsel for the appellant and Mr. Kabirullah Khattak, Additional AG alongwith M/S Jalal-ud-Din, Agronomist and Asad-ud-Din, Superintendent for official respondents No. 1 to 3 present. Written reply on behalf of respondents not submitted. Representatives of the department requested for adjournment. Adjourned to 01.07.2019 for written reply/comments before S.B. The restraint order already granted vide order sheet dated 28.05.2019 shall continue till the date fixed.

  
(Muhammad Amin Khan Kundi)  
Member

01.07.2019

Junior to counsel for the appellant and Mr. Kabirullah Khattak learned Additional Advocate General alongwith M/S. Jalal-ud-din, Agronomist and Asad-ud-din Superintendent for the official respondents present and submitted written reply/comments. None present on behalf of the private respondent No.4, therefore, notice be issued to the private respondent No.4 to attend the court and submitted written reply/comments on 15.07.2019 before S.B. The restraint order already granted vide order sheet dated 28.05.2019 shall continue till the date fixed.

  
Member

28.05.2019

Counsel for the appellant present.

Learned counsel assailed the impugned order dated 11.04.2019 whereby the appellant was transferred from the office of Director Agriculture (Extension) Merged Area Hayatabad Peshawar to office of DDA Malakand mainly on the grounds that in essence the impugned order was for the purpose of promotion of Junior Clerks (BPS-11) to the post of Senior Clerk (BPS-14). Upon promotion the officials therein except the appellant and two others were to join the place of their respective posting. As the appellant was not promoted from the post of Junior Clerk to Senior Clerk the transfer order smacked malafide on the part of respondents. It was further urged that respondent No. 4 who was transferred vice the appellant was appointed on 26.09.2018 and as such was on probation, therefore, could not be transferred. It was also the argument of learned counsel that the Establishment Department of Government of Khyber Pakhtunkhwa had imposed ban on posting/transfer of officials/officers from merged area to settled area and vice versa through notification dated 15.11.2018. The said ban was still in field, therefore, the impugned transfer of appellant was violative of the government decision.

The appeal in hand is admitted for regular hearing in view of the submissions of learned counsel. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents. To come up for written reply/comments on 17.06.2019 before S.B.

There is an application for order requiring suspension of the impugned order. Notice of the application be also given to the respondents for the date fixed. Till next date of hearing the operation of office order dated 11.04.2019 shall remain suspended to the extent of appellant.

Chairman

Appellant Deposited  
Security & Process Fee

30/5/19

28.05.2019

Counsel for the appellant present.

Learned counsel assailed the impugned order dated 11.04.2019, whereby the appellant was transferred from the office of Director Agriculture (Extension) Merged Area Hayatabad Peshawar to office of DDA Malakand, mainly on the grounds that in essence the impugned order was for the purpose of promotion of Junior Clerks (BPS-11) to the post of Senior Clerk (BPS-14). Upon promotion the officials therein except the appellant and two others were to join the place of their respective posting. ~~upon promotion~~. As the appellant was not promoted from the post of Junior Clerk to Senior Clerk the transfer order smacks <sup>ed</sup> malafide on the part of respondents. It was further urged that respondent No. 4 who was transferred vice the appellant was appointed on 26.09.2018 and as such was on probation, therefore, could not be transferred. It was also the argument of learned counsel that the Establishment Department of Government of Khyber Pakhtunkhwa had imposed ban on posting/transfer of officials/officers from merged area to settled area and vice versa through notification dated 15.11.2018. The said ban was still in field, therefore, the impugned transfer of appellant was violative of the government decision.

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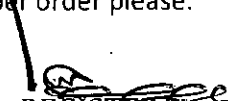
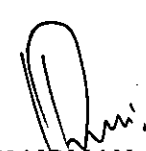
Chairman

*Reopened on fresh page  
aggr connection.*

Form- A  
FORM OF ORDER SHEET

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

Case No.- \_\_\_\_\_ 694/2019 \_\_\_\_\_

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	24/05/2019	<p style="text-align: center;">The appeal of Mr. Kaleemullah presented today by Mr. Noor Muhammad Khattak Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 24/5/19</p>
2-	27/05/19	<p style="text-align: center;">This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>28/05/19</u></p> <p style="text-align: right;"> CHAIRMAN</p> <p style="text-align: right; font-size: small;">27/5/19</p>

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

SERVICE APPEAL NO. \_\_\_\_\_/2019

KALEEM ULLAH

V/S

GOVT. OF KP & OTHERS

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6	Office order for Medical Leave	D	9
7	Appointment order of Private Respondent	E	10
8	Departmental Appeal	F	11
9	Judgment dated 21.05.2019	G	12-14
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12	Vakalatnama	.....	19

APPELLANT

*Kaleem*

**KALEEM ULLAH**

THROUGH:

*[Signature]*  
**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE**



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

Khyber Pakhtunkhwa  
Service Tribunal

SERVICE APPEAL NO. 694 /2019

Diary No. 801

Dated 24/5/2019

**MR. KALEEM ULLAH**, Junior Clerk (BPS-11),  
O/o Director Agriculture (Extension), Merged Area, Hayat Abad Peshawar  
Under transfer to O/O the Deputy Agriculture (Extension),  
District Malakand ..... **APPELLANT**

**VERSUS**

- 1- The Government of Khyber Pakhtunkhwa through Secretary Agriculture, Livestock & Cooperative Department, Civil Secretariat, Peshawar.
- 2- The Director General, Agriculture (Extension), Khyber Pakhtunkhwa, Peshawar.
- 3- The Director, Agriculture (Extension), Merged Area, Hayat Abad, Peshawar.
- 4- Mr. Afsar Khan, Junior Clerk (BPS-11), o/o Deputy Director, Agriculture (Extension), District Malakand under transfer to Director Agriculture (Extension), Merged area, Hayat Abad Peshawar.

..... **RESPONDENTS**

Filed to-day  
Registrar  
24/5/19

**APPEAL U/S 4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 11.04.2019 WHEREBY THE APPELLANT HAS BEEN TRANSFERRED FROM MERGED AREA TO DISTRICT MALAKAND DURING BAN PERIOD AND UTTER VIOLATION OF LAW & RULES AND AGAINST THE APPELLATE ORDER DATED 22.05.2019 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT HAS BEEN REJECTED ON NO GOOD GROUNDS**

**PRAYERS:**

That, on acceptance of this appeal the impugned transfer order dated 11.04.2019 & appellate order dated 21.05.2019 may very kindly be set aside and the appellant may be retained at his original place of posting at Merged Area. Any other remedy which this Honourable Tribunal deems fit that may also be awarded in favour of the appellant.

**R/SHEWETH:**

**ON FACTS:**

**Brief facts giving rise to the present appellant are as under:-**

- 1- That appellant is the Law abiding, peaceful citizen of Pakistan and living with his family within the local jurisdiction of this Honourable Court. Copy of CNIC is attached as Annexure ..... **A.**
- 2- That appellant is the employee of respondent Department and is serving as Junior Clerk (BPS-11) under the administrative control of respondent No.3 quite efficiently and up to the entire satisfaction of his superiors.
- 3- That appellant while performing his duty as Junior Clerk (BPS-11) was served with the impugned order dated 11.04.2019 whereby the appellant has been transferred from Merged Area to District Malakand inspite of the fact that the provincial Government through Notification dated 15.11.2018 has imposed complete ban on posting/transfer of all officers and officials from Merged Area to Settled and Vice versa, in the best of interest of public service which is still intact. Copies of the impugned order and Notification are attached as annexure ..... **B and C.**
- 4- That, while issuing the impugned order dated 11.04.2019 the appellant was passing through mental stress and became a patient of hypertension for which after thorough check up through Medical practitioner the appellant was advised with complete rest and accordingly the respondent granted the appellant medical leave vide office order dated 16.04.2019. Copy of order is attached as annexure ..... **D.**
- 5- That, it is pertinent to mention here that while issuing the impugned order dated 11.04.2019 the person transferred in place of the appellant i.e. private Respondent No. 4 was on probation as the private Respondent No. 4 is appointed on 26.09.2018 and is placed on probation for period of one year. Copy of the appointment order is attached as annexure ..... **E.**
- 6- That appellant feeling aggrieved from the impugned Notification dated 29.04.2019 filed Department appeal before the respondent No.1 wherein the appellant had fully explained his position that he is on medical leave and when the same was not responded the appellant file Writ Petition No. 2829-P/2019 which was disposed of vide judgment dated 21.05.2019 with the direction to disposed of the Departmental appeal of the appellant within 10 days. Copy of the Departmental appeal and judgment is attached as annexure ..... **F&G.**
- 7- That, after the direction issued in the above mentioned writ petition the respondents regretted the Departmental Appeal of the appellant vide appellate order dated 22.05.2019 with certain baseless observation/reasons. Copy of impugned order is attached as annexure ..... **H.**

8- That appellant having no other remedy but to file the instant service appeal before this Honourable Tribunal on the following grounds amongst the others.

**GROUND:**

A- That the impugned order dated 11.04.2019 & appellate 22.05.2019 issued by the respondents is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside to the extent of appellant and private respondent.

B- That appellant has not been treated in accordance with law and rules by the respondent department on the subject noted above and as such the respondents violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

C- That appellant was on medical leave and passing through mental stress and also a serious patient of hypertension as such the impugned order dated 11.04.2019 is not tenable and liable to be set aside.

D- That the impugned order dated 11.04.2019 is also violative of Clause-1, Clause-IV and Clause-XI of transfer/posting policy of Provincial Government. Copy of the transfer/posting policy is attached as annexure ..... **I.**

E- That the impugned order dated 11.04.2019 & appellate order dated 22.05.2019 has been issued by the respondent No.3 in arbitrary and malafide manner, therefore, the same is not tenable in the eye of law and liable to be struck down.

F- That, the appellate order dated 22.05.2019 is not based on facts on the score that the reason for the transfer of the appellant mentioned in Para-1 of the appellate impugned order is with regard to the allegation of late comer which means that the impugned transfer order is made as a punishment, therefore, the impugned order dated 11.04.2019 and appellate order dated 22.05.2019 is against the Law, Rules and policy.

G- That the impugned order dated 11.04.2019 & appellate order dated 22.05.2019 is based on discrimination, favoritism and nepotism as is evident from the appellate order dated 22.05.2019 in Para-2 that the Private Respondent has requested for his transfer being appointed under Deceased son's Quota and the appellant is also local to the respondent department being son of a retired employee of the respondent Department, hence not tenable and liable to be set aside.

H- That, the impugned order dated 11.04.2019 & appellate order dated 22.05.2019 is not passed in the public interest which is clear violation of judgments passed by this Honourable Court and also the apex

Supreme Court of Pakistan hence the impugned order dated 11.04.2019 is a void ab-initio in its nature.

- I- That, the impugned order dated 11.04.2019 & appellate order dated 22.05.2019 is also against the Law & prevailing Rules as the impugned order dated 11.04.2019 is issued during ban period as the provincial Government has imposed complete ban on posting/transfer of all officers and officials from Merged Area to Settled area and Vice versa, in the best of interest of public service which is still intact vide notification dated 15.11.2018.
- J- That, the impugned order dated 11.04.2019 is void ab-initio as the employees mentioned from S# 1 to S#7 are those who have been promoted and are given placement/posting only, the appellant have been made scapegoat in the impugned order dated 11.04.2019 just to accommodate his blue eyed person.
- K- That appellant seeks permission to advance other grounds and proofs at the time of hearing.

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

**APPELLANT**

*Kaleem*

**KALEEM ULLAH**

**THROUGH:**

*[Signature]*  
**NOOR MOHAMMAD KHATTAK  
ADVOCATE**

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

**SERVICE APPEAL NO. \_\_\_\_\_/2019**

**KALEEM ULLAH**

**V/S**

**GOVT. OF KP & OTHERS**

**APPLICATION FOR SUSPENSION OF THE IMPUGNED  
ORDER DATED 11.04.2018 TO THE EXTENT OF  
APPELLANT & RESPONDENT NO. 5 TILL THE DISPOSAL  
OF THIS APPEAL**

**R/SHEWETH:**

- 1- That the appellant filed above mentioned appeal before this august service Tribunal in which no date is fixed till now.
- 2- That appellant has filed the above mentioned appeal against the impugned transfer order dated 11.04.2019.
- 3- That all the three ingredients necessary for the stay is in favor of the petitioner.
- 4- That the grounds of main appeal is also be considered as integral part of this application.

It is therefore, humbly prayed that on acceptance of this application the impugned order dated 11.04.2019 may very kindly be suspended to the extent of the appellant & private Respondent No. 5 till the disposal of this appeal.

APPELLANT

*Kaleem*

**KALEEM ULLAH**

THROUGH:

*[Signature]*  
**NOOR MOHAMMAD KHATTAK  
ADVOCATE**

A-6

PAKISTAN National Identity Card

ISLAMIC REPUBLIC OF PAKISTAN

Name: Kaleem Ullah

Father Name: Fazli Ghani

Gender: M Country of Stay: Pakistan

Identity Number: 17301-19933613 Date of Birth: 01-09-1982

Date of Issue: 02-03-2016 Date of Expiry: 02-03-2026

Holder's Signature

21654

17301-19933613

QR Code

5049410139737  
136-82-1541495

Registrar General of Pakistan

گشده کارڈ ملنے پر قریبی لیڈ بکس میں ڈال دیں

ATTESTED

**DIRECTORATE GENERAL AGRICULTURE (EXTENSION)  
KHYBER PAKHTUNKHWA, PESHAWAR.**

**OFFICE ORDER**

B-7

On the recommendation of Departmental Promotion Committee the competent authority is pleased to promote the following Junior Clerks (BS-11) to the post of Senior Clerk (BS-14) on regular basis with immediate effect. However, they will be on probation for a period of one year in terms of Section-6 (2) of Khyber Pakhtunkhwa Civil Servant Act, 1973 read with Rules of Khyber Pakhtunkhwa Civil Servant Appointment, Promotion and Transfer Rules 1989.

S.No	Name of Official	#	Name of Official
1.	Ashiq Muhammad	4.	Sami Ud Din
2.	Sardar Ali	5.	Sikandar Khan
3.	Hamid Saleem	6.	Babar Ali

On their promotion they are hereby transferred / posted as under:-

S.No	Name of Official	From	To
1.	Mr. Ashiq Muhammad	Junior Clerk (BS-11) working against the post of Senior Clerk (ops) o/o the DDA, DIKhan	Senior Clerk (BS-14) o/o the DDA, DIKhan.
2.	Mr. Sardar Ali	Junior Clerk (BS-11) o/o the DDA, Swat	Senior Clerk (BS-14) o/o the DDA, Swat
3.	Mr. Hamid Saleem	Junior Clerk (BS-11) o/o the DDA, Kohat	Senior Clerk (BS-14) o/o the DDA, Karak.
4.	Mr. Sami Ud Din	Junior Clerk (BS-11) o/o the DDA, DIKhan	Senior Clerk (BS-14) o/o the Director Agriculture merged-area Hayatabad, Peshawar.
5.	Mr. Sikandar Khan	Junior Clerk (BS-11) o/o the DDA, Dir Upper	Senior Clerk (BS-14) o/o the DDA, Dir Upper.
6.	Mr. Babar Ali	Junior Clerk (BS-11) o/o the DDA, Kohistan.	Senior Clerk (BS-14) o/o the DDA, Kohistan.
7.	Mr. Muhammad Iqbal, Senior Clerk	Senior Clerk (BS-14) working against the post of Junior Scale Stenographer (ops) o/o DDA, Swat.	Senior Clerk (BS-14) o/o the DDA, Swat.
8.	<del>Mr. Kaleemullah</del>	Junior Clerk (BS-11) o/o Director Agriculture (Extension) merged area Hayatabad, Peshawar.	Junior Clerk (BS-11) o/o DDA, Malakand.
9.	<del>Mr. Asar Khan</del>	Junior Clerk (BS-11) o/o DDA, Malakand.	Junior Clerk (BS-11) o/o Director Agriculture merged area Hayatabad, Peshawar.

Sd/-(MUHAMMAD NASIM)  
DIRECTOR GENERAL

No.15/21/Estt./ 7490-514 DGA (E)

Dated Peshawar the 11/4 /2019

Copy forwarded to:-

1. The Addl. Accountant General PR sub-office, Peshawar.
2. The Director Agriculture (Extension) merged area, Hayatabad Peshawar.
3. The District Directors Agriculture, DIKhan, Swat, Kohat, Karak, Dir Upper, Kohistan and Malakand.
4. The District Accounts Officer, DIKhan, Swat, Kohat, Karak, Dir Upper, Kohistan and Malakand.
5. Officials concerned.

For information and necessary action.

6. File No.18/1/Estt./ for record.

Diary No. 2402

Date 15/04/19

Director of Agriculture

FATA Peshawar

E:\kram\office order/promotion order JC to SC.docx

DIRECTOR GENERAL

ATTESTED

15/04/19  
10/4/2019



GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
ESTABLISHMENT DEPARTMENT

Dated Peshawar November 15, 2018

**NOTIFICATION**

**NO. SO(E-I)/E&AD/9-126/2018.** The Competent Authority is pleased to impose ban on postings/transfers of officers and officials from Merged Areas to Settled Areas and vice versa, in the public interest, with immediate effect, till further orders:

**CHIEF SECRETARY  
GOVERNMENT OF KHYBER PAKHTUNKHWA**

**ENDST. NO. & DATE EVEN.**

**Copy forwarded to the:-**

1. Additional Chief Secretary, P&D Department.
2. Additional Chief Secretary Merged Areas, Warsak Road, Peshawar
3. Senior Member Board of Revenue, Khyber Pakhtunkhwa
4. Principal Secretary to Governor, Khyber Pakhtunkhwa.
5. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
6. All Administrative Secretaries to Government of Khyber Pakhtunkhwa.
7. Secretary (Admn: Coord: & Infra) Merged Area, Warsak Road, Peshawar.
8. Secretary (Law & Order) Merged Area, Warsak Road, Peshawar.
9. All Divisional Commissioners in Khyber Pakhtunkhwa.
10. Accountant General, Khyber Pakhtunkhwa
11. All Deputy Commissioners in Khyber Pakhtunkhwa.
12. Director General Information, Khyber Pakhtunkhwa.
13. PS to Chief Secretary, Khyber Pakhtunkhwa.
14. PS to Secretary Establishment/PS to Secretary Administration Departments.
15. PS to Special Secretary (E)/ PS to Special Secretary (E)/D.S.(Admn), D.S. (Estts)/SO(Secret)/SO(HRD-I)/SO(E-II)/DD(ET) and ACSO Cypher E&AD.
16. Manager, Govt. Printing Press Peshawar.

(ISHTIAQ AHMAD)  
SECTION OFFICER (E-I)  
PH 091-9210529

ZIA.UL.HAQ

ATTESTED





D-9

## DIRECTORATE OF AGRICULTURE EXTENSION MERGED AREAS

Phase-5, Sector B-1, Adjacent NADRA Office, Hayatabad, Peshawar.

Phone No.091-9217721, Food Cell 091-9217717 Fax No.091-9217868 Email: agricdata@yahoo.com

### OFFICE ORDER

Under the Civil Servant Revised Leave rules 1981. Sanction as hereby accorded to the grant of (8) eight days earned leave in full pay in respect of Mr. Kaleem Ullah Junior Clerk office of the under signed with effect from 04/04/2019 to 11/04/2019 on medical ground.

Certified that the official concerned will likely to returned with the same post and station on expiry of his leave.

Sd/-  
(RAHMAT-UD-DIN)  
DIRECTOR AGRICULTURE  
(EXTENSION) MERGED AREAS,  
PESHAWAR

2420-23  
No. 2/91/Estt./ /DA (M.A)

Dated Peshawar the 16/4/2019

Copy forwarded to:-

- 1) The Additional Accounts General PR Sub-Office, Peshawar.
- 2) The Pay bill clerk H.Q with the remarks to make necessary entry in the service book of the official, draw his pay from leave salary budget and deduct Conveyance Allow from the official concerned during his leave period.
- 3) The official concerned with reference to his application dated 3.4.2019.
- 4) Personal file of the official for record.

For information and necessary action.

ATTESTED

DIRECTOR AGRICULTURE  
(EXTENSION) MERGED AREAS,  
PESHAWAR

Better copy

10

DIRECTORATE GENERAL AGRICULTURE (EXTENSION) KHYBER PAKHTUNKHWA, PESHAWAR

OFFICE ORDER

On the recommendation of Departmental Selection Committee Mr. Muhammad Afsar S/o (late) Alam Khan is hereby appointed as Junior Clerk (BS-11) Rs. (12570-880-38970) as per provision under rule-10(4) of appointment, promotion and transfer rule 1989 under deceased/medical board son quota against the vacant post in the office of the District Director Agriculture, Malakand on the following terms and condition.

1. He will get pay at the minimum of BS-11 including usual allowances as admissible under the rules. He will also be entitled to annual increment.
2. His services will be liable to termination with or without any reason on one month notice from either side. In case of termination without notice by the employer or one month notice from the employee for resignation one month pay and allowances shall be paid by the Government or refunded by the employee as the case may be.
3. He will contribute towards General Provident Fund as per rules.
4. He will be allowed conveyance, Medical, House-Rent Allowance, leave and TA/DA as per Government rules.
5. He has to join duty at his own expenses.
6. He will be on Probation for a period of One year with effect from the date of joining his duty. His service can be terminated at any time incase his performance is not satisfactory during the period.
7. He shall produce a medical fitness certificate from Medical Superintendent, Malakand before reporting himself for duty to the office of District Director Agriculture, Malakand as required the rules.

If he accepts the post on the above conditions, he should report for duty to the District Director Agriculture, Malakand within fourteen (14) days of the issuance of this order and produce original certificates.

ATTESTED

SD/- (MUHAMMAD NASIM)  
DIRECTOR GENERAL  
AGRICULTURE (EXTENSION)  
KHYBER PAKHTUNKHWA, PESHAWAR.

No.15/158/Estt/18567-70/DGA

Dated 26.09.2018

Copy forwarded to:-

1. The District Director Agriculture, Malakand.
2. The District Accounts Officer, Malakand.
3. Mr. Muhammad Afsar S/o (late) Alam Khan village Nala-Kajuri, Khyber Agency.

For information and necessary action.

4. File Ni.18/1/Estt for record.

Sd/- DIRECTOR GENERAL  
AGRICULTURE (EXTENSION)  
KHYBER PAKHTUNKHWA, PESHAWAR.

E-10

DIRECTOR GENERAL AGRICULTURE (EXTENSION) KHYBER PAKHTUNKHWA PESHAWAR

OFFICE ORDER

On the recommendation of Departmental Selection Committee Mr. Muhammad Afzar S/o (Late) Alam Khan is hereby appointed as Junior Clerk (BS-11) Rs (12,576.000-38,970) as per provision under rule-10 (4) of appointment promotion and transfer rule 1988 under the deceased / medical board non quote against the vacant post in the office of the District Director Agriculture, Malakand on the following terms and condition.

- 1) He will get pay at the minimum of BS 11 including usual allowances as admissible under the rules. He will also be entitled to annual increment
- 2) His services will be liable to termination with or without any reason on one month notice from either side. In case of termination without notice by the employer or one month notice from the employee for resignation one month pay and allowances shall be paid by the Government or refunded by the employee as the case may be
- 3) He will contribute towards General Provident Fund as per rules
- 4) He will be allowed conveyance, Med. ca, House Rent Allowances, leave and TA / DA as per Government rules
- 5) He has to join duty at his own expenses
- 6) He will be on probation for a period of one year with effect from the date of joining his duty. His service can be terminated at any time in case his performance is not satisfactory during the period
- 7) He shall produce a medical fitness certificate from Medical Superintendent Malakand before reporting himself for duty to the office of District Director Agriculture Malakand as required under the rules

If he accepts the post on the above conditions he should report for duty to the District Director Agriculture Malakand within fourteen (14) days of the issuance of this order and produce original certificates

Sd/- (MUHAMMAD NASIM)  
DIRECTOR GENERAL  
AGRICULTURE (EXTENSION)  
KHYBER PAKHTUNKHWA PESHAWAR

No. 15/158/Estt/ 12567-70/DGA

Dated Peshawar the 26 / 09 / 2018

Copy forwarded to:

Better copy page No

F-11

To,

The secretary to govt. of Khyber Pakhtunkhwa,  
Agriculture, livestock and cooperation department,  
Peshawar.

Trough: **proper channel**

Subject: **DEPTT: APPEAL FOR CANCELLATION OF TRANSFER ORDER**

Respected sir,

Mostly respectfully it was submitted that I have been transferred from the directorate of agriculture, merged areas, Peshawar to the office of district director agriculture, Malakand vide director general, agriculture (Ext) Khyber Pakhtunkhwa, Peshawar vide office order No. 15/21/Estt/7490/DG DATED 11.4.2019. (Copy attached).

In this connection it is further submitted:-

- 1) That the provincial government has already imposed ban on posting/transfer of officers and officials from merged areas to settled areas and vice versa, in the public interest, with immediate effect, till further orders vide government of Khyber Pakhtunkhwa, establishment department notification no. SO(E-I)E&AD/9-126/2018 DATED 15.11.2018 (COPY ATTACHED).
- 2) That the substituted official has been appointed on 26.09.2018 vide office order No.15/158/Estt/18567-70/DGA dated 26.09.2018 and has not yet completed his probation period over there.
- 3) That my name for transfer has been included in the panel of those junior clerks who have been promoted to the post of senior clerks just with malafide intention as I have never been promoted to the post of senior clerks.
- 4) That the above transfer order has been issued in ultra violation of the ban imposed by the competent authority vide notification referred to above.

*attested*  
It is humbly requested that the director general, agriculture (extension) Khyber Pakhtunkhwa, Peshawar may kindly be asked to cancel my transfer order in view of the above notification and oblige.

With profound regards.

Yours obediently

29/4/2019

(Kaleem Ullah)

Junior clerk

Directorate of agriculture  
Merged areas, Peshawar

To

The Secretary to Govt. of Khyber Pakhtunkhwa,  
Agriculture, Livestock and Cooperation Department,  
Peshawar.

10  
F-11

Through: Proper channel.

Subject: DEPT. APPEAL FOR CANCELLATION OF TRANSFER ORDER

Respected Sir,

Mostly respectfully it was submitted that I have been transferred from the Directorate of Agriculture, Merged Areas, Peshawar to the office of District Director Agriculture, Malakand vide Director General, Agriculture (Ext) Khyber Pakhtunkhwa, Peshawar vide office order No.15/21/Estt/7490-514/DG dated 11.4.2019. (Copy attached).

In this connection it is further submitted:-

- 1) That the Provincial Government has already imposed ban on posting/transfer of officers and officials from Merged Areas to Settled Areas and vice versa, in the public interest with immediate effect, till further orders vide Government of Khyber Pakhtunkhwa Establishment Department Notification No.SO(E-I)/E&AD/9-126/2018 dated 15.11.2018 (Copy attached).
- 2) That the substituted official has been appointed on 26.09.2018 vide Office Order No.15/158/Estt/18567-70/DGA dated 26.09.2018 and has not yet completed his probation period over there.
- 3) That my name for transfer has been included in the panel of those Junior Clerks who have been promoted to the post of Senior Clerks just with malafide intention as I have never been promoted to the post of Senior Clerk.
- 4) That the above transfer order has been issued in ultra violation of the Ban imposed by the Competent Authority vide Notification referred to above.

It is humbly requested that the Director General, Agriculture (Extension) Khyber Pakhtunkhwa, Peshawar may kindly be asked to cancel my transfer order in view of the above notification and oblige.

With profound regards.

Yours Obediently

Dated: 29.04.2019

**ATTESTED**

*Kaleem Ullah*  
(Kaleem Ullah)  
Junior Clerk

Directorate of Agriculture  
Merged Areas, Peshawar.

*Please look into this matter and direct to the Dept. 29/4/2019*

Secretary to Govt. of Khyber Pakhtunkhwa,  
Agriculture, Livestock and Cooperation Department, Peshawar.  
Copy in advance is forwarded to the Secretary to Govt. of Khyber Pakhtunkhwa, Agriculture, Livestock and Cooperation Department, Peshawar for sympathetic consideration please.

*[Handwritten signature]*

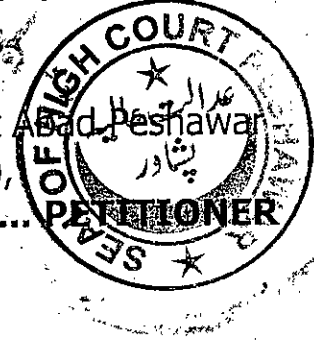
(1)

9-12

**BEFORE THE PESHAWAR HIGH COURT PESHAWAR**

**WRIT PETITION NO. \_\_\_\_\_/2019**

Mr. Kaleem Ullah, Junior Clerk (BPS-11),  
O/o Director Agriculture (Extension), Merged Area, Hayat Abad Peshawar  
Under transfer to O/O the Deputy Agriculture (Extension),  
District Malakand .....



**VERSUS**

- 1- The Government of Khyber Pakhtunkhwa through Secretary Agriculture, Livestock & Cooperative Department, Civil Secretariat, Peshawar.
- 2- The Director General, Agriculture (Extension), Khyber Pakhtunkhwa, Peshawar.
- 3- The Director, Agriculture (Extension), Merged Area, Hayat Abad, Peshawar.
- 4- Mr. Afsar Khan, Junior Clerk (BPS-11), o/o Deputy Director, Agriculture (Extension), District Malakand under transfer to Director Agriculture (Extension), Merged area, Hayat Abad Peshawar.

..... **RESPONDENTS**

**WRIT PETITION UNDER ARTICLE 199 OF THE  
CONSTITUTION OF ISLAMIC REPUBLIC OF  
PAKISTAN 1973 AS AMENDED UPTO DATE**

**R/SHEWETH:**  
**ON FACTS:**

**ATTESTED**  
  
**EXAMINER**

**Brief facts giving rise to the present writ petition  
are as under:-**

- 1- That petitioner is the Law abiding, peaceful citizen of Pakistan and living with his family within the local jurisdiction of this Honourable Court. Copy of CNIC is attached as Annexure ..... **A.**
- 2- That petitioner is the employee of respondent Department and is serving as Junior Clerk (BPS-11) under the administrative control of respondent No.3 quite efficiently and up to the entire satisfaction of his superiors.
- 3- That petitioner while performing his duty as Junior Clerk (BPS-11) was served with the impugned order dated 11.04.2019 whereby the petitioner has been transferred from Merged Area to District Malakand inspite of the fact that the provincial Government through Notification dated 15.11.2018 has imposed complete ban on posting/transfer of all officers and officials from Merged Area to Settled and Vice versa, in the best of interest of public service which is still intact. Copies of the impugned order and Notification are

13

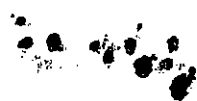
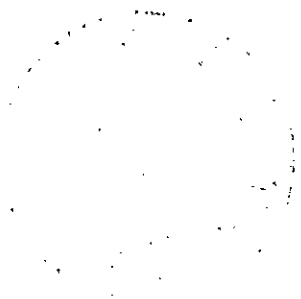
PESHAWAR HIGH COURT, PESHAWAR  
FORM OF ORDER SHEET

Date of Order of Proceedings	Order of other Proceedings with Signature of Judge.
1	2
21.05.2019	<p><b>WP No. 2829-P of 2019.</b></p> <p><b>Present:</b> Mr. Noor Muhammad Khattak, advocate, for the petitioner.</p> <p>Syed Sikandar Hayat Shah, AAG ( on court notice)</p> <p>*****</p> <p><b><u>QAISER RASHID KHAN, J:-</u></b> Through the present petition, the petitioner has prayed as under;</p> <p><i>"On acceptance of this writ petition the impugned Notification dated 11.04.2019 may very kindly be set aside to the extent of petitioner and private respondent No.4 and the respondents may be directed that not to transfer the petitioner from the o/o Director Agriculture (Extension) Merged Area, Hayatabad, Peshawar or the respondents may kindly be directed to dispose of the Departmental appeal of the petitioner in light Clause-XIV of the transfer/posting policy of the provincial Government"</i></p> <p>2. Admittedly, the petitioner has already preferred a departmental appeal/representation</p>



Handwritten initials or signature.

TESTED  
EXAMINER



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MEMBER



before the Appellate Authority i.e. respondent No.1, therefore, the said respondent is directed to positively decide the same within ten days. The petitioner, if aggrieved from the order of the Appellate Authority, may approach the proper forum for the redressal of his grievance as the same cannot be considered by this court in view of the specific bar contained in Article 212 (2) of the Constitution of the Islamic Republic of Pakistan 1973.

3. Accordingly, this petition stands disposed of in the above terms.

Announced.  
21.05.2019

SENIOR PUISNE JUDGE

JUDGE

**CERTIFIED TO BE TRUE COPY**

Examiner  
Postmaster  
Authorized under Article 67 of  
The Pakistan Post Office Act 1958

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Date of Presentation of Application 24/5/79  
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Date of Preparation of Copy 24/5/79  
Date of Delivery of copy 24/5/79  
Received By [Signature]

H-15

**DIRECTORATE GENERAL AGRICULTURE (EXTENSION) KHYBER  
PAKHTUNKHWA, PESHAWAR**

No.18/171/Estt/ 10465 /DG Dated Peshawar, the 22/5 /2019

To,

Mr. Kaleem Ullah  
Junior Clerk o/o District Director Agriculture, Malakand,  
C/O House No ATI Colony Peshawar.

Subject: REQUEST FOR WITHDRAWAL OF TRANSFER/ RELIEVING ORDER  
Memo.

Reference your application on dated 06.05.2019 addressed to the Director Agriculture Extension (Merged Areas) Peshawar and copy thereof endorsed to this office wherein you have used harsh/ repugnant and unlawful language against your superior which is clear cut violation of the rules and also against the office decorum.

Your such like attitude comes into disobedience of orders and fling mud over respectable officers of the department.


It is further added that your application consists some of un-parliamentary language which may not be used in future failing which necessary action under EAD Rules will be taken against you and adverse entries in Col "Disobedience Order" will also be recorded in your coming ACR.

Your application for withdrawal/ cancellation of order have thoroughly been examined and found unsatisfactory, however para-wise replies are as under:

1. Your transfer have been made due to non-attending your own office (Director Merged Area, Hayatabad Office, Peshawar) in time and was wondering in the campus/ colony upto 11:00 AM. thus your such careless in performing of duty were noticed time and again but no fruitful result was achieved from your end. Before your transfer some transfers have already been made from FATA to Settled and from Settled to FATA (transfer orders are attached as a proof).
2. One Junior Clerk namely Mr. Afsar was appointed in the office of the District Director Agriculture, Malakand against deceased son quota and he was performing his duty very honestly and requested time and again for his transfer to District Peshawar while he is belonging to District Peshawar, originally to Merged District Khyber and showed that no responsible person is present for look after of his home specially in night time, therefore his transfer has been made in place of you due to your longest stay in the office of Director Agriculture (Merged Area), Peshawar not on personal revenge.
3. Your transfer order has been issued on 15.04.2019 and was required to assume the new place of posting for some time without hesitation but not to do so and shown undesirable reaction against the transfer order issued by this office.
4. As you know better that your transfer order was issued before Medical Certificates, but you have obtained Medical Certificate and furnished to his office for the grant of leave and for defence and also to revoke the transfer order.
5. The first leave on Medical ground was sanctioned/ accepted by the competent authority due to illness but after verification you were not ill while wondering in the campus in good health.
6. The second medical leave was not accepted by the immediate boss as the same was obtained only for delaying tactics for non-assuming the new assignment where your transfer has been made. It is also pointed out that due to transfer usually the government servant are trying to obtain Medical certificate for leave to make himself safe from any action initiated against him.

7. Yes your father was a government servant and after retirement he was also residing in government accommodation and completed his legal period with grace days, when asked him to vacate the government building for needy officer of the department, he refused and illegally occupied the said building which is clear cut violation and tried to bulldoze the rules specified for allotment and vacation of the government building and he also realized its own property instead of Government property and want to utilize the said building for whole life which is injustice with the other fellow of the department "God will also enquired on the Justice Day from the illegal occupant.
8. Being a Junior Clerk BPS-5 at that time and according to correct merit list, you was not found entitled for government accommodation, therefore the government accommodation occupied by your father on your name is unjustified/ illegal.
9. Due to clerical mistake the quarter was allotted to you. Later on withdrawn the orders and correct the record as well as merit list for allotment of government accommodation in this office.
10. Your father had already knocked the door of the court and decision is awaited if again you want to go to the court, there is no ban upon you to knock the door of the court.
11. No this is incorrect and false statement to transfer you in shape of unwarranted action as your transfer have been made on the best interest of public service.
12. If any instructions received from the high-up, then this office will see it for suitable action.
13. In light of the directions if received from Secretary Agriculture, then will take suitable action.
14. Due to your longest stay, your transfer have been made.

Finally, you are directed to assume your new assignment, obey the orders and as and when vacancy occurred at your own home District Nowshera then your transfer will be made and you are also advised to refrain from such like language/ correspondence with high-ups while every government servant is bound to perform their duties honestly and not giving any opportunity to high-ups for initiating enquiry against him due to non-compliance of orders of the undersigned.


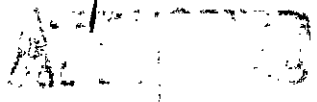
  
 DIRECTOR GENERAL

No.      /      / Estt/                      / DG      Dated Peshawar, the    /    / 2019

Copy forwarded to:

1. The Secretary to Government of Khyber Pakhtunkhwa, Agriculture, Livestock and cooperation Department, Peshawar for information with their remarks on the body of appeal "please look into this necessary appeal on dated 21.04.2019.
2. The Director Agriculture (Merged Area), Peshawar for information.
3. The District Director Agriculture, Malakand, for information and with the remarks to ensure presence of the official concerned in his office.

//  
 DIRECTOR GENERAL



GOVERNMENT OF NWFP  
ESTABLISHMENT & ADMINISTRATION  
DEPARTMENT  
(Regulation Wing)

I - 17

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.  
  
While making postings/transfers of officers/officials up to BS-17, from settled areas to FATA and vice-versa approval of the Chief Secretary NWFP needs to be obtained. Whereas, In case of posting/transfer of officers in BS-18 and above, from settled areas to FATA and vice versa, specific approval of the Governor NWFP shall be obtained.
- vi (a) All Officers/officials selected against Zone-1/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.

ATTESTED

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

ATTESTED

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- xi) Officers/officials except DCOs and DPOs/SPs who are due to retire within one year may be posted on their option on posts in the Districts of their domicile and be allowed to serve there till the retirement  
 DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales;
- xii) In terms of Rule-17(1) and (2) read with Schedule-III of the NWFP Government Rules of Business 1985, transfer of officers shown in column 1 of the following table shall be made by the authorities shown against each officer in column 2 thereof:

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

ATTESTED

- 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

*[Handwritten signature]*

*[Handwritten signature]*

*[Handwritten signature]*

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

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

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

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

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

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

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

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

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

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

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**VAKALATNAMA**

*Before the KP Service Tribunal, Peshawar*

No. \_\_\_\_\_/2019

*Kaleem ullah*

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

*Govt of K.P.K & others*

(RESPONDENT)  
(DEFENDANT)

I/We *Kaleem ullah*

Do hereby appoint and constitute **NOOR MOHAMMAD KHATTAK, Advocate, Peshawar** to appear, plead, act, compromise, withdraw or refer to arbitration for me/us as my/our Counsel/Advocate in the above noted matter, without any liability for his default and with the authority to engage/appoint any other Advocate Counsel on my/our cost. I/we authorize the said Advocate to deposit, withdraw and receive on my/our behalf all sums and amounts payable or deposited on my/our account in the above noted matter.

Dated. \_\_\_\_\_/\_\_\_\_\_/2019

*Kaleem*

**CLIENT**

*NK*  
**ACCEPTED**

**NOOR MOHAMMAD KHATTAK**

**SHAHZULLAH KHAN YOUSAFZAI**

**&**

*MZ*  
**MIR ZAMAN SAFI**  
**ADVOCATES**

**OFFICE:**

Room No. 1, Upper Floor,  
Islamia Club Building, Khyber Bazar,  
Peshawar City.  
Phone: 091-2211391.



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

Appeal No. 694/2019

Mr. Kaleemullah,

Junior Clerk BS-11 o/o Director Agriculture Extension

Merged Area Hayatabad, Peshawar

**APPELLANT**

**VERSUS**

- 1- Government of Khyber Pakhtunkhwa through Secretary Agriculture, Livestock & Cooperative Department Peshawar.
- 2- Director General, Agriculture (Extension) Khyber Pakhtunkhwa, Peshawar.
- 3- Director Agriculture Extension Merged Area Hayatabad, Peshawar.
- 4- Mr. Afsar Khan, Junior Clerk BS-11 o/o the Director Agriculture Extension Merged Area.

**RESPONDENTS**

**PARA-WISE COMMENTS ON BEHALF OF RESPONDENTS NO.1, 2 & 3**

**PRELIMINARY OBJECTIONS**

- 1- That the appellant has got no locus standi to file the instant appeal.
- 2- That the appeal is not maintainable in its present form and liable to be dismissed.
- 3- That the appellant has no cause of action to file the instant appeal.
- 4- That the appellant has deliberately concealed the material fact from this Hon'ble Services Tribunal.
- 5- That the appellant has not come to this Honorable Service Tribunal with clean hand.
- 6- That the appeal of the appellant is time barred.

**ON FACT PARA-WISE COMMENTS**

Para-1 Pertains to record of appellant.

Para-2 In-Correct. That the appellant is the employee of Agriculture Extension Department and is working as Junior Clerk BS-11 in the o/o Director Agriculture Extension Merged Area Hayatabad Peshawar with effect from 25.01.2010 under the Administrative Control of Respondent No. 2.

Para-3 Correct to the extent that after issuing of notification dated 15.11.2018 the Govt. of Khyber Pakhtunkhwa issued posting transfer for orders of Mr. Asghar Khan BS-18 o/o District Director Agriculture, Peshawar to the Merged Area Hayatabad Peshawar as Dy. Director Agriculture in place of Mr. Ihsanullah, Dy. Director Agriculture Extension Merged Area Peshawar as Subject Matter Specialist to the o/o District Director Agriculture, Peshawar vide Notification No. SOE(AD) V-7/2018/EW dated 22.02.2019 (Annexure-A) and the officers

relinquished / assumed the charge in new place of posting with effect from 01.03.2019 copy attached as (Annexure B & C).

Para-4 In-correct. The transfer order of the appellant have been made due to not attending the office in time and was wondering in the Agriculture Training Institute, Colony up to 11:00 AM. The performance of duty were noticed time and again but no fruitful result was achieved from the appellant, The appellant served in the office of Respondent No. 3 as Junior Clerk BS-11 with effect from 25.01.2010 i.e. 10 years and above and completed his tenure and the impugned order was issued in the public interest. The transfer order of the appellant was issued before the medial certificate and furnished to his office for the grant of leave and for defense and also to revoke the transfer order. The first leave on medical ground was sanctioned by the competent authority but after verification the appellant was not ill while wondering in the campus in good health, the second medical leave was not accepted by the competent authority as the same was obtain only for delaying tactics for non assuming the new assignment.

Para-5 Detail comments in Para-4 above.

Para-6 Correct to the extent that according to the Peshawar High Court Peshawar decision in Writ Petition No.2829-P/2019 dated 21.05.2019 the departmental appeal / request for withdrawal of transfer order of the appellant has been rejected with the remarks that the appellant has used harsh / repugnant and unlawful language against the superior and violation of the rules. The attitude come into the disobedient of orders and flings over respectable officer of the department the application contest some of un palimony language. The department appeal have thoroughly been examine and found un-satisfactory. The appellant was finally directed to assume your new assignment, obey the order vide letter No. 18/171/Estt./ 10465/DG dated 22.05.2019 (Annexure-D) but till date he failed to assume his duty in the new assignment.

Para-7 As explain in Para-6 above.

Para-8 No comments, hence denied.

#### **GROUND**

Para-A Incorrect. That the impugned order dated 11.04.2019 and letter dated 22.05.2019 issued by the Respondents is not against the law, fact, norms of natural justice.

Para-B Incorrect. The appellant has been treated in accordance with Law and Rules by the Respondent Department and not violated Article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

Para-C Incorrect. Detail comments given in Para-4 above.

- Para-D Incorrect. The transfer order of the appellant issued according to the posting transfer policy issued by the Provincial Govt. the appellant working as Junior Clerk BS-11 in the o/o Respondent No. 3 for the last 10 year and above and completed his tenure and the impugned order issued in public interest.
- Para-E Incorrect. That the impugned order dated 11.04.2019 and the appellant order dated 22.05.2019 has been issued by the Respondent No.2 and not issued by the Respondent No. 3. The orders issued according to the law / rules and public interest.
- Para-F Incorrect. Detail comments given and fully explain in the above paras.
- Para-G Incorrect. That the impugned order dated 11.04.2019 and appellate order 22.05.2019 is not base on discrimination / favoritism and nepotism.
- Para-H Incorrect. That the impugned dated 11.04.2019 and appellate order dated 22.05.2019 is passed in the public interest which is not violation of the judgments passed by this Honorable Court.
- Para-I Incorrect that the impugned order 11.04.2019 and appellate order dated 22.05.2019 is not against the law / rules and also explained in Para-3 above.
- Para-J Incorrect. Detail comments given in the above paras.
- Para-K Respondents also seek permission from this Honorable Tribunal to advance further grounds during arguments.

It is hereby humbly prayed that on acceptance on the instant comments, the appeal of the appellant may kindly be dismissed.

1. GOVT. OF KHYBER PAKHTUNKHWA THROUGH  
SECRETARY AGRICULTURE, LIVESTOCK &  
COOPERATIVE DEPARTMENT PESHAWAR

2.

DIRECTOR GENERAL,  
AGRICULTURE (EXTENSION)  
KHYBER PAKHTUNKHWA,  
PESHAWAR

3.

DIRECTOR AGRICULTURE  
(EXTENSION) MERGED AREA  
HAYATABAD, PESHAWAR

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

Appeal No. 694/2019  
Mr. Kaleemullah,  
Junior Clerk BS-11 o/o Director Agriculture Extension  
Merged Area Hayatabad, Peshawar

**APPELLANT**

**VERSUS**

- 1- Government of Khyber Pakhtunkhwa through Secretary Agriculture, Livestock & Cooperative Department Peshawar.
- 2- Director General, Agriculture (Extension) Khyber Pakhtunkhwa, Peshawar.
- 3- Director Agriculture Extension Merged Area Hayatabad, Peshawar.

**RESPONDENTS**

**COUNTER AFFIDAVIT**

We the undersigned hereby solemnly declare / affirm that the contents of the Para-wise reply / comments are true and correct to the best of our knowledge and belief and nothing has been kept secret from this Honorable Tribunal.

1. GOVT. OF KHYBER PAKHTUNKHWA THROUGH  
SECRETARY AGRICULTURE, LIVESTOCK &  
COOPERATIVE DEPARTMENT PESHAWAR

2. DIRECTOR GENERAL  
AGRICULTURE (EXTENSION)  
KHYBER PAKHTUNKHWA,  
PESHAWAR

3. DIRECTOR AGRICULTURE  
(EXTENSION) MERGED AREA  
HAYATABAD, PESHAWAR



**NOTIFICATION**

NO. SOE (AD) V-7/2018/EW:- The Competent Authority is pleased to order the posting/transfer of the following officers of Agriculture Extension Department with immediate effect in the best public interest:-

#	Name of officer	From	To
1.	Mr. Muhammad Anwar Khan (BS-18)	District Director Agriculture BS-19 Tank (OPS)	Subject Matter Specialist (PP) BS-18 O/o DDA, Tank.
2.	Mr. Hussain Ahmad (BS-18)	Subject Matter Specialist (PP) BS-18, O/o DDA, Tank.	Deputy Director Farm (BS-18) Rakli Zandani, D.I.Khan.
3.	Mr. Anjad (BS-18)	Subject Matter Specialist (Agronomy & Extension) BS-18 o/o DDA, Nowshera.	Subject Matter Specialist (Plant Protection) BS-18 O/o DDA, Haripur.
4.	Mr. Faris Mehmood (BS-18)	Subject Matter Specialist (Horticulture) (BS-18) O/o DDA, Kohat	Subject Matter Specialist (Agronomy & Extension) BS-18 O/o DDA, Nowshera.
5.	Mr. Shahid Hussain (BS-18)	Subject Matter Specialist (Horticulture) BS-18 O/o DDA, Buner.	Subject Matter Specialist (PP) (BS-18) DDA, Malakand.
6.	Dr. Zahoor-Ud-Din (BS-17)	Agriculture Officer, Bara (BS-17) O/o AAO (T) Khyber	Subject Matter Specialist (Agronomy and Extn) (BS-18) DDA, Hangu.
7.	Mrs. Sameera Rehman (BS-17)	Agricultural Officer (BS-17) On deputation to PARC Islamabad.	She will actualize her posting as SMS (Horticulture) BS-18 O/o DDA Kohat and then continue her deputation at NARC, Islamabad.
8.	Asghar Khan (BS-18)	Subject Matter Specialist (Hort) BS-18 O/o DDA Peshawar.	Deputy Director Merged Area Hayatabad Peshawar.
9.	Mr. Usmanullah (BS-18)	Deputy Director Merged Area Hayatabad Peshawar.	Subject Matter Specialist (Hort) BS-18 DDA Peshawar. Vice Sr. 8

Sd/s  
SECRETARY-AGRICULTURE.

List of even No. & Date.

Copy to the:-

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

(JAVED MAQBOOL BUTI)  
SECTION OFFICER-ESTT

**DIRECTORATE GENERAL AGRICULTURE (EXTENSION) KHYBER PAKHTUNKHWA, PESHAWAR**

No.12/2/Estt./4552-75/DG

Dated Peshawar, the 28/2/2019

Copy forwarded to:-

1. The Accountant General, Pakistan Revenue Islamabad.
2. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
3. The Additional Accountant General, PR Sub Office Peshawar.
4. The District Directors Agriculture, Tank, DIKhan, Nowshera, Haripur, Kohat, Buner, Malakand, Hangu & Peshawar
5. The District Account Officers, Tank, DIKhan, Nowshera, Haripur, Kohat, Buner, Malakand, Hangu & Peshawar.
6. The Dy. Director Agriculture Merged Area Dalazak Road Peshawar.
7. Officers concerned.
8. Mrs. Sameera Rehman, Agricultural Officer Scientific Officer Food Programme HRI National Agriculture Research Council Islamabad.

For information and necessary action.

9. Personal Field of the officers concerned for record.

(YAR MUHAMMAD)  
SUPERINTENDENT ESTT

(B)

**CHARGE ASSUMPTION CERTIFICATE**

In Pursuance to Government of Khyber Pakhtun Khwa, Agriculture, Livestock and Coop Deptt: Peshawar Notification No. SOE (AD) V-7/2018/EW dated 21-02-2019.

I hereby Assumed the charge of the post of Subject Matter Specialist Horticulture office of the DDA Peshawar today on 01-03-2019 (F.Noon).

Sd/-  
(IHSAN ULLAH)  
Subject Matter Specialist,  
Horticulture, o/o DDA Peshawar.

No. 498-511 /DDA (Ext:)Peshawar.

Dated 1/3 /2019.

Copy forwarded for information and necessary action to :-

- 1 The Accountant General, Khyber PakhtunKhwa, Peshawar.
- 2 The Addl: Accountant General, PR-Sub Office, Peshawar.
- 3 The Director General Agriculture (Extension), Khyber PakhtunKhwa, Peshawar.
- 4 The Director Agriculture (Extension) (FATA), Peshawar.
- 5 The Manager, Government printing press, Khyber PakhtunKhwa, Peshawar.
- 6 The Chief Planning Officer, Agriculture Department, Civil Secretariat, Peshawar.
- 7 PS to Chief Secretary, Khyber PakhtunKhwa, Peshawar.
- 8 PS to Ministry for Agriculture, Khyber PakhtunKhwa, Peshawar.
- 9 PS to Secretary Agriculture, Livestock & Coop Deptt: Khyber Pakhtun Khwa, Peshawar.
- 10 P.A to Deputy secretary (Admn), Agriculture, Livestock & Coop Deptt: Khyber Pakhtun Khwa, Peshawar
- 11 The District Accounts Officer Peshawar.
- 12 The District Director Agriculture Peshawar.
- 13 The Manager, State Bank of Pakistan Peshawar.
- 14 Personal file of the Officer concerned.

*[Signature]*  
Subject Matter Specialist,  
Horticulture, o/o DDA Peshawar.

*Supp Estab  
4/3/19*

*file  
4/3/19*

*fac is submitted  
to origin inst  
4/3/19 may be filed  
4/3/19*

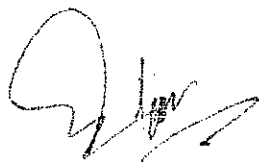
No. \_\_\_\_\_/DDAP

Dated Peshawar the \_\_\_\_\_/02/2019.

②

**CHARGE RELINQUISH**

In compliance with Secretary Agriculture, Livestock and Cooperative Department, Khyber Pakhtunkhwa Notification No. SOE. (AD)V-7/2018/EW, dated: 22.02.2019, I Mr. Asghar Khan (Subject Matter Specialist Horticulture), Department of Agriculture Extension District Peshawar here by relinquish the charge today on 28.02.2019 (afternoon). Photocopy of the notification is enclosed.

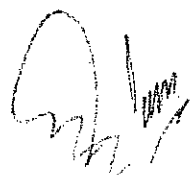


Asghar Khan  
SMS-Horticulture District  
Peshawar

Endst. of even No. & Date. *485-900/28.2.2019*  
Copy to the:

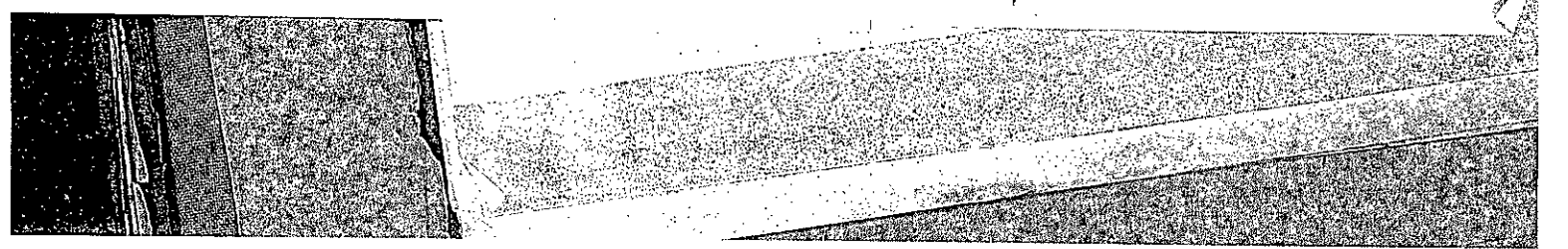
1. The Accountant General Khyber Pakhtunkhwa, Peshawar
2. The Director General Agriculture (E), Khyber Pakhtunkhwa, Peshawar
3. The District Account Officer, District Peshawar
4. P.S to the Minister for Agriculture, Khyber Pakhtunkhwa, Peshawar
5. P.S. to Secretary Agriculture, Livestock & Cooperative Department, Khyber Pakhtunkhwa, Peshawar
6. P.A to Deputy Secretary (Admin :). Agriculture, Livestock & Coop: Deptt. Khyber Pakhtunkhwa, Peshawar.

*Supp  
Estab. PC  
4/3/19*



Asghar Khan  
SMS-Horticulture District  
Peshawar

*File  
4/3/19*  
*EPI  
4/3/19*  
*fac is submitted  
in 3 or 4  
may be filed  
4/3/19*



## CHARGE RELINQUISH CERTIFICATE

In Pursuance to Government of Khyber Pakhtun Khwa, Agriculture, Livestock and Coop Deptt: Peshawar Notification No. SOE (AD) V-7/2018/EW dated 21-02-2019.

I hereby Relinquish the charge of the post of Deputy Director of Agriculture (Extension), FATA, Peshawar today on 28-02-2019 (A.Noon).

Sd/-

(IHSAN ULLAH)

Deputy Director Agriculture,  
(Extension) FATA, Peshawar.

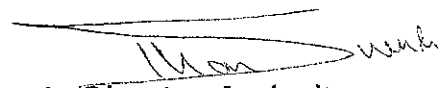
No. 85-98 /DDA/FATA

Dated 28/02 /2019.

Copy forwarded for information and necessary action to :-

- 1 The Accountant General, Khyber PakhtunKhwa, Peshawar.
- 2 The Addl: Accountant General, PR-Sub Office, Peshawar.
- 3 The Director General Agriculture (Extension), Khyber PakhtunKhwa, Peshawar.
- 4 The Director Agriculture (Extension) (FATA), Peshawar.
- 5 The Manager, Government printing press, Khyber PakhtunKhwa, Peshawar.
- 6 The Chief Planning Officer, Agriculture Department, Civil Secretariat, Peshawar.
- 7 PS to Chief Secretary, Khyber PakhtunKhwa, Peshawar.
- 8 PS to Ministry for Agriculture, Khyber PakhtunKhwa, Peshawar.
- 9 PS to Secretary Agriculture, Livestock & Coop Deptt: Khyber Pakhtun Khwa, Peshawar.
- 10 P.A to Deputy secretary (Admn), Agriculture, Livestock & Coop Deptt: Khyber Pakhtun Khwa, Peshawar
- 11 The District Accounts Officer Peshawar.
- 12 The District Director Agriculture Peshawar.
- 13 The Manager, State Bank of Pakistan Peshawar.
- 14 Personal file of the Officer concerned.

Supp. Estab. P  
5/3/19

  
Deputy Director Agriculture,  
(Extension) FATA, Peshawar.

E1  
5/3/19

467



(D) H-15

**DIRECTORATE GENERAL AGRICULTURE (EXTENSION) KHYBER  
PAKHTUNKHWA, PESHAWAR**

No.18/171/Estt/ 10465 /DG Dated Peshawar, the 22/5 /2019

To,

Mr. Kaleem Ullah  
Junior Clerk o/o District Director Agriculture, Malakand,  
C/O House No ATI Colony Peshawar.

Subject: REQUEST FOR WITHDRAWAL OF TRANSFER/ RELIEVING ORDER  
Memo.

Reference your application on dated 06.05.2019 addressed to the Director Agriculture Extension (Merged Areas) Peshawar and copy thereof endorsed to this office wherein you have used harsh/ repugnant and unlawful language against your superior which is clear cut violation of the rules and also against the office decorum.

Your such like attitude comes into disobedience of orders and fling mud over respectable officers of the department.

It is further added that your application consists some of unparliamentary language which may not be used in future failing which necessary action under E&D Rules will be taken against you and adverse entries in Col "Disobedience Order" will also be recorded in your coming ACR.

Your application for withdrawal/ cancellation of order have thoroughly been examined and found unsatisfactory, however para-wise replies are as under:

1. Your transfer have been made due to non-attending your own office (Director Merged Area, Hayatabad Office, Peshawar) in time and was wondering in the campus/ colony upto 11:00 AM. thus your such careless in performing of duty were noticed time and again but no fruitful result was achieved from your end. Before your transfer some transfers have already been made from FATA to Settled and from Settled to FATA (transfer orders are attached as a proof).
2. One Junior Clerk namely Mr. Afsar was appointed in the office of the District Director Agriculture, Malakand against deceased son quota and he was performing his duty very honestly and requested time and again for his transfer to District Peshawar while he is belonging to District Peshawar, originally to Merged District Khyber and showed that no responsible person is present for look after of his home specially in night time, therefore his transfer has been made in place of you due to your longest stay in the office of Director Agriculture (Merged Area), Peshawar not on personal revenge.
3. Your transfer order has been issued on 15.04.2019 and was required to assume the new place of posting for some time without hesitation but not to do so and shown undesirable reaction against the transfer order issued by this office.
4. As you know better that your transfer order was issued before Medical Certificates, but you have obtained Medical Certificate and furnished to his office for the grant of leave and for defence and also to revoke the transfer order.
5. The first leave on Medical ground was sanctioned/ accepted by the competent authority due to illness but after verification you were not ill while wondering in the campus in good health.
6. The second medical leave was not accepted by the immediate boss as the same was obtained only for delaying tactics for non-assuming the new assignment where your transfer has been made. It is also pointed out that due to transfer usually the government servant are trying to obtain Medical certificate for leave to make himself safe from any action initiated against him.

- (16)
7. Yes your father was a government servant and after retirement he was also residing in government accommodation and completed his legal period with grace days, when asked him to vacate the government building for needy officer of the department, he refused and illegally occupied the said building which is clear cut violation and tried to bulldoze the rules specified for allotment and vacation of the government building and he also realized its own property instead of Government property and want to utilize the said building for whole life which is unjustice with the other fellow of the department "God will also enquire on the Justice Day from the illegal occupant.
  8. Being a Junior Clerk BPS-5 at that time and according to correct merit list, you was not found entitled for government accommodation, therefore the government accommodation occupied by your father on your name is unjustified/ illegal.
  9. Due to clerical mistake the quarter was allotted to you. Later on withdrawn the orders and correct the record as well as merit list for allotment of government accommodation in this office.
  10. Your father had already knocked the door of the court and decision is awaited if again you want to go to the court, there is no ban upon you to knock the door of the court.
  11. No this is incorrect and false statement to transfer you in shape of unwarranted action as your transfer have been made on the best interest of public service.
  12. If any instructions received from the high-up, then this office will see it for suitable action.
  13. In light of the directions if received from Secretary Agriculture, then will take suitable action.
  14. Due to your longest stay, your transfer have been made.

Finally, you are directed to assume your new assignment, obey the orders and as and when vacancy occurred at your own home District Nowshera then your transfer will be made and you are also advised to refrain from such like language/ correspondence with high-ups while every government servant is bound to perform their duties honestly and not giving any opportunity to high-ups for initiating enquiry against him due to non-compliance of orders of the undersigned.

DIRECTOR GENERAL

No. \_\_\_/\_\_\_/Estt/\_\_\_/DG

Dated Peshawar, the \_\_\_/\_\_\_/2019

Copy forwarded to:

1. The Secretary to Government of Khyber Pakhtunkhwa, Agriculture, Livestock and cooperation Department, Peshawar for information with their remarks on the body of appeal "please look into this necessary appeal on dated 21.04.2019:
2. The Director Agriculture (Merged Area), Peshawar for information.
3. The District Director Agriculture, Malakand, for information and with the remarks to ensure presence of the official concerned in his office.

//  
DIRECTOR GENERAL

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

Appeal No. 694/2019

Mr. Kaleemullah, Junior Clerk V/S

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

**REPLY TO APPLICATION FOR SUSPENSION OF THE IMPUGNED  
ORDER DATED 11.04.2019 TO THE EXTENT OF APPELLANT AND  
RESPONDENT NO. 4 TILL THE DISPOSAL OF THIS APPEAL**

R/Sheweth:-

1. Incorrect. That the appellant filled appeal before this Honorable Tribunal in which date has been fixed on 01.07.2019.
2. No comments.
3. Incorrect. The appeal of the appellant is a week case having no legal force and no prima face case in favour of the appellant. However reply to main appeal may kindly be considered as part of the reply.
4. Incorrect. That the appellant is serving / working for the last 10 years and above in the office of Director Agriculture Extension Merged Area Hayatabad Peshawar and completed his tenure. The performance of the appellant is also not satisfactory and so many warning were given and the transfer order issued by the Respondent No. 2 dated 11.04.2019, in accordance to the law / rules and in case the impugned order is not suspended the appellant will not suffer irreparable loss and further all the 4 ingredient are in favour of the Respondents. That the ground of main appeal is also not be consider as integral part of this application.

It is humbly prayed that this application is not full filling all the ingredients necessary for granting of stay, thus may kindly be dismissed.

1. GOVT. OF KHYBER PAKHTUNKHWA THROUGH  
SECRETARY AGRICULTURE, LIVESTOCK &  
COOPERATIVE DEPARTMENT PESHAWAR

2.

DIRECTOR GENERAL,  
AGRICULTURE (EXTENSION)  
KHYBER PAKHTUNKHWA,  
PESHAWAR

3.

DIRECTOR AGRICULTURE  
(EXTENSION) MERGED AREA  
HAYATABAD, PESHAWAR

original

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

**APPEAL NO. 694/2019**

**KALEEM ULLAH**

**VS**

**GOVT: OF KPK**

**REJOINDER ON BEHALF OF THE APPELLANT IN**  
**RESPONSE TO THE REPLY SUBMITTED BY THE**  
**RESPONDENTS**

**PRELIMINARY OBJECTIONS:**

**1 TO 6:**

All the preliminary objections raised by the respondents are incorrect, baseless and not in accordance with law and rules rather the respondents are estopped due to their own conduct to raise any objection at this stage of the case.

**ON FACTS:**

- 1- Admitted correct hence needs no comments.
- 2- Correct to the extent that the appellant is working under the administrative control of respondent No. 2 while the rest of Para is incorrect. That due to malice against appellant, the respondent no. 2 even denied to be the administrative head of the whole department when the matter was pertaining to the appellant, only to deprived the appellant from his right and upon complaint of the appellant, the Section Officer of Chief Minister directed and reminded his duty and responsibility for ease of reference relevant portion is reproduced here " That D.G Agriculture (extension) is the overall head of settle and FATA (erstwhile) vide letter dated 14.07.2014. (Copy of letter is attached as annexed.....R).
- 3- Incorrect and not replied accordingly. That the respondent no.2 has taken the shelter of other illegal orders which had been issued in violation of the law and rules. That the said Notification regarding transfer of other employees mentioned in Para-3 of the reply had also been issued during the ban period on transfer/posting.
- 4- Incorrect and not replied accordingly. That para-4 of the reply of is a pack of lies, misrepresentation, misquotation and a failed attempt of misleading this Hon'able Tribunal, the transfer of the appellant is made only with malafide

intention of respondent no. 2, the allegations of not attending the office time etc is false having no nexus with reality as since his appointment till date, the appellant is having unblemished service record and attending his office timely and efficiently. Interestingly colleagues/senior and so many other officer/official have not been transfer since their appointment till date but specifically targeted the appellant with ulterior motives. It is pertinent to mention with such a great unfortunate that respondent no.2 being holder of such responsible position, and with affidavit at the end of reply, did not feel any hesitation and so boldly and deliberately trying to mislead this Hon'able Tribunal even having full knowledge that the quoted facts are false, baseless and even against the apparent/available documented record of his own office. The appellant submitted application for leave on medical ground on dated 03-04-2019 and the same was granted accordingly vide office order No. 2/91/Estt./2420-23/DA(M.A) dated 16/04/2019 this letter completely negated the concocted story of the respondent no.2 and thus he is estopped by his conduct. The line 7 to 14 of para 4 not only negate the own version of the respondent no. 2 but also speaks volume of malafide intention, discriminative attitude and above all the level of competence of respondent no.2. That the respondent no.2 at the same time performing the functions of director general, the Medical practitioner, as well as that of a judge which smacks malafide on the part of respondent no.2 that even illness of the appellant was termed as escaping from the transfer. On the other hand the private respondent have been transferred and posted vice of the appellant was on usual probation but even then he was transferred which indicates that respondent no. 02 do not believe in equally in treatment amongst his subordinate staff and resultantly compelling them for litigations.

(Copy of the letter dated 16.7.2014 is attached as annexure.....**R1**).

- 5- Incorrect and not replied accordingly. That it is pertinent to mention here that respondent no. 02 has transferred the appellant with malafide intention and that is why to justify his illegal act time and again beating behind the bushes by further leveling false frivolous and irrelevant allegations against appellant in every in Para without any proof. It is important to mention that the malafide, discriminative and prejudice on the part of respondent no.2 is clearer than the crystal that on dated 29-04-2019, the appellant filed appeal for cancellation of his transfer order but ironically instead to decide the same either way the appeal of appellant was decided on the reference of another application such haste and carelessness is also suggestive of malafide as well as competence level of the respondent no. 3. It is extremely

sad to mention that appeal rejection order is not a proper legal order but is pack of allegations, threats and above all discriminative approach towards the appellant. The allegations of harsh, repugnant language is also highly condemnable being baseless, in fact it is respondent no. 02 who uses contemptuous language even against the Hon'able court not only within the premises of the court but also in writing as well. Above all the transfer of the appellant is a series of malafide actions initiated against him by the respondent no.2.

6- Admitted correct hence need no comments.


**GROUND:**  
**(A TO F):**

All the grounds of main appeal are correct and in accordance with law and prevailing rules and that of the respondents are incorrect and baseless. That the appellant has not been treated in accordance with law and rules and the respondent Department acted in arbitrary and malafide manner by transferring with malafide intension and replace the appellant with the employees who has even did not completed his probationary period. That the transfer of the appellant is violative of the transfer/posting Policy promulgated by the Government of Khyber Pakhtunkhwa. That the transfer of the appellant was made on administrative ground and it is pertinent to mention here that transfer cannot be awarded as a punishment.

It is therefore, most humbly prayed that on acceptance of this rejoinder of the appellant may be accepted as prayed.

24-9-2019

  
**APPELLANT**

**KALEEM ULLAH**  
**THROUGH:**  
  
**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE**

(R)

11



# CHIEF MINISTER'S SECRETARIAT KHYBER PAKHTUNKHWA

No. SO (Admn.)CMS/KPK/2-6/2014  
Dated Peshawar the, 14.07.2014

8511

To

The Director General,  
Agriculture (Extension),  
Khyber Pakhtunkhwa Peshawar.

Subject:-

APPLICATION FOR ALLOTMENT OF GOVERNMENT RESIDENTIAL  
ACCOMMODATION.

P/3

Dear Sir,

I am directed to refer to your letter No. 18/129/Estt/9967/DG dated 02.07.2014 on the subject noted above and to state that DG Agriculture (Extension) is the overall incharge of settled and (FATA) and he may consider the request of the applicant.

Yours Faithfully,

(Manzoor Ahmad)  
Section Officer (Admn.)

Copy forwarded to:-

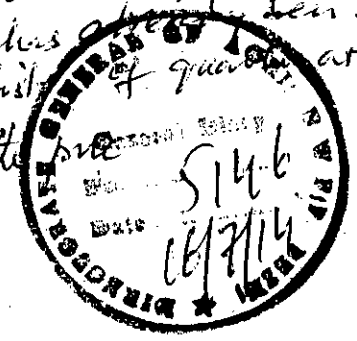
1. PSO to Chief Minister Khyber Pakhtunkhwa.
2. Dr.Imran MNA NA-5 Nowshera.

Section Officer (Admn.)

S/E  
16/7  
16/7/14

1979  
16/7/14

The name of Mr. Kaleem  
The FATA has been enlisted  
in the waiting list  
Many file the name of Kaleem at FATA.



For kind information of  
DL(ACE) in  
DG/10 on  
18/7/14  
19/7/2014

23/7/14



(R1) 31

**GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
AGRICULTURE, LIVESTOCK & COOPERATIVES  
DEPARTMENT**

No. SOG (AD) 1-5/ACC/2014  
Dated Peshawar the 16<sup>th</sup> July, 2014

To

**The Director General,  
Agriculture Extension,  
Khyber Pakhtunkhwa, Peshawar.**

Subject:

**APPEAL FOR ALLOTMENT OF QUARTER NO. S-1/4 POSSESSED BY  
MY FATHER TO MY NAME.**

I am directed to refer to the above noted subject and to enclose a copy of letter No.PSG/1-6/2014/1959-60 dated 25<sup>th</sup> June, 2-014 alongwith its enclosures which are self explicit.

It is to add that as per Government policy the applicant is entitled for out of turn allotment of accommodation in consequence of retirement of his father Mr. Fazal-e-Ghani and may not be discriminated against and treated at par with the other employees working in FATA and having residences allotted at the ATI campus.

It is therefore requested that equality in treatment to the applicant may be ensured and progress be submitted to this department at the earliest please.

  
**(Dr. MIR AHMAD KHAN)  
SECTION OFFICER (Admn)**

Endst No. and date even:-

Copy to:

1. Syed Nooran Shah, Private Secretary to Governor, KP w/r to his above quoted letter.
2. Mr. Kalcemullah, Junior Clerk, Direcorate Agriculture FATA, Peshawar.
3. PS to Secretary Agriculture, Khyber Pakhtunkhwa.

SECTION OFFICER (Admn)

*DD added  
MM  
13/7*





GOVERNMENT OF  
KHYBER PAKHTUNKHWA  
AGRICULTURE LIVESTOCK & COOPERATIVE  
DEPARTMENT

Dated Peshawar, the May 16, 2019

NOTIFICATION.

NO. SOE (AD) V-7/2019/EW: -

In pursuance of Election Commission of Pakistan dated 06.05.2019, the Competent Authority is pleased to held in abeyance, the posting transfer order issued vide this department notification No. SOE(AD) V-7/2019/EW dated 07.05.2019.

Sr. No.	Name of Officers	Posted
1.	Mr. Fayaz Ali Jan	Agriculture Agency Officer, BS-18 Kurram
2.	Dr. Zahoor-Ud-Din	Subject Matter Specialist (Agronomy & Extension) BS-18 O/o DDA, Hangu.

Sd/X  
SECRETARY AGRICULTURE

Indst. of even No. & Date.

Copy to the:

1. The Director General, Agriculture (Extension) Department, Khyber Pakhtunkhwa, Peshawar.
2. The District Accounts Officer Hangu & Kurram.
3. P.S to Minister for Agriculture Department, Khyber Pakhtunkhwa, Peshawar.
4. P.S to Secretary, Agriculture, Livestock and Coop: Department, Khyber Pakhtunkhwa, Peshawar.
5. P.A to Additional Secretary Agriculture, Livestock and Coop: Department: Khyber Pakhtunkhwa, Peshawar.
6. P.A to Deputy Secretary (Admn.), Agriculture, Livestock and Coop: Department Khyber Pakhtunkhwa, Peshawar.
7. Officers concerned.
8. Master file.

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

DIRECTORATE GENERAL AGRICULTURE (EXTENSION)  
KHYBER PAKHTUNKHWA, PESHAWAR

OFFICE ORDER

The transfer order in respect of Mr. Kaleemullah, Junior Clerk and other already issued vide No.15/21/Estt/7490-514/DGA(E) dated 11.04.2019 in which the transfer order of Mr. Kaleem Ullah and Mr. Afsar Khan, Junior Clerks at S.No. 8 & 9 respectively is hereby suspended with immediate effect due to the directives of the Hon'ble Service Tribunal Khyber Pakhtunkhwa, Peshawar till the decision of the case.

Sd/- (MUHAMMAD NASIM)  
DIRECTOR GENERAL  
AGRICULTURE (EXTENSION)  
KHYBER PAKHTUNKHWA, PESHAWAR

No.15/21/Estt/ 19600-5 /DG Dated Peshawar: the 25/9 /2019

Copy forwarded to: -

1. The Accountant General, Khyber Pakhtunkhwa, Peshawar.
2. The District Director Agriculture, Malakand.
3. The District Accounts Officer, Malakand at Batkhela.
4. The Director of Agriculture (Merged Areas) Peshawar.
5. Officials concerned.

For information and necessary action.

6. File No.18/1/Estt/ for record.

  
DIRECTOR GENERAL