

12.09.2019

Learned counsel for the appellant present. Mr. Riaz Khan Paindakheil learned Assistant Advocate General present. Learned counsel for the appellant seeks withdrawal of the present service appeal. Consequently the present service appeal is hereby dismissed as withdrawn. No order as to costs. File be consigned to the record room.

(Hussain Shah)  
Member

  
(Muhammad Hamid Mughal)  
Member

ANNOUNCED.  
12.09.2019

09.04.2019

Appellant with counsel present and seeks adjournment. In the present case transfer posting order has been made impugned hence last opportunity is granted. To come up for arguments on 30.04.2019 before D.B.

  
Member

Member

30.04.2019

Appellant with counsel and Mr. Muhammad Jan learned Deputy District Attorney alongwith Mehboob Kamal J.C present. Representative of the respondent department submitted transfer posting order dated 08.04.2019 and stated that in view of the said order, the present service appeal has become infructuous. Learned counsel for the appellant however seeks adjournment.

Interim relief regarding suspension of the operation of impugned order granted till 06.02.2019 was not extended any further. The interim relief is therefore no more in field. Adjourn. To come up for further proceedings/arguments on 27.06.2019 before D.B.

  
Member

  
Member

27.06.2019

Counsel for the appellant and Asstt. AG for the respondents present. Due to incomplete bench case is adjourned to 12.09.2019 for arguments before the D.B.


  
Reader

10/19

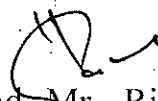
06.2.2019 Appellant in person and Addl. AG alongwith Mahboob Alam, Junior Clerk for the respondents present.

Representative of respondents ~~further~~ requests for time to submit written reply. May do so positively on next date of hearing.

Adjourned to 12.03.2019 before the S.B.

  
Chairman

12.03.2019 Junior to counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Abbas S.C present. Written reply submitted. To come up for rejoinder/arguments on 26.03.2019 before D.B.

26.03.2019 Learned counsel for the appellant and   
Member  
Paindakhel learned Assistant Advocate General alongwith Mr. Shams Ur Rehman Section Officer for the respondents present. To come up for rejoinder/arguments on 09.04.2019 before D.B.

(Hussain Shah)  
Member

(Muhammad Amin Khan khudi)  
Member

16.01.2019

Counsel for the appellant present.

It was argued that the appellant was posted as Superintendent BPS-17 in the office of Chief Engineer (North) C&W Department Peshawar under notification dated 10.05.2017 and in pursuance thereof he assumed the charge on 16.05.2017. On 19.09.2018 the appellant was transferred as Administrative Officer (OPS) in the office of Chief Engineer (East) C&W Abbottabad. The said act on the part of respondents was not only violative of the Provincial Government posting/transfer policy dated 10.01.2009 but was also in dis-regard to the notification of the Provincial Government dated 16.08.1994. The later pertains to restriction on transfer of office bearers of Association during their tenure as such. In the said regard judgment passed by this Tribunal in Appeal No. 1333/2015 was also relied upon.

In view of the averments of learned counsel and material placed on record instant appeal merits admission for regular hearing. Admit. 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 06.02.2019 before S.B.

The appeal is accompanied by an application for suspension of operation of the impugned order dated 19.09.2018. Notice of application be also given to the respondents. The operation of impugned order shall remain suspended till the next date of hearing.

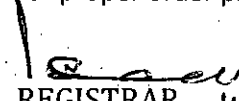
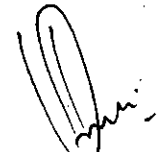
Appellant Deposited  
Security & Process Fee

Chairman

Form- A  
FORM OF ORDER SHEET

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

Case No. 10/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	04/1/2019	<p>The appeal of Mr. Zahid Habib 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 4/1/19</p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>16-1-2019</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
2-		

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

Appeal No. 10 /2019

**ZAHID HABIB**

**VS**

**C&W DEPTT:**

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2	Stay application	.....	4.
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4	Impugned Notification	<b>B</b>	6.
5	Departmental appeal	<b>C</b>	7- 8.
6	Notifications	<b>D</b>	9- 10.
7	Notification dated 14.11.2018	<b>E</b>	11.
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10.	Vakalat nama	.....	17.

**APPELLANT**

**THROUGH:**

  
**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE**

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

APPEAL No. 10 /2019

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 13  
Dated 04/11/2019

Mr. Zahid Habib, Superintendent (BPS-17),  
O/O Chief Engineer (North) C&W Department,  
Peshawar under transfer to the O/O Chief Engineer,  
East) C&W Abbottabad ..... **APPELLANT**

**VERSUS**

- 1- The Government of Khyber Pakhtunkhwa through Secretary C&W Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Chief Engineer (Centre/North), C&W Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Chief Engineer (East), C&W Abbottabad.

..... **RESPONDENTS**

**APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATIONS DATED 19.9.2018 AND 14.11.2018 WHEREBY THE APPELLANT HAS BEEN TRANSFERRED IN UTTER VIOLATION OF LAW, RULES AND POLICY OF THE PROVINCIAL GOVERNMENT OF KHYBER PAKHTUNKHWA AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS**

**PRAYER:** That on acceptance of this appeal the impugned Notifications dated 19.9.2018 and 14.11.2018 may kindly be set aside to the extent of appellant and the appellant may not be transferred from the post of Superintendent (BPS-17, O/O the Chief Engineer (North), C&W Department, Peshawar. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

**R/SHEWETH:**

**ON FACTS:**

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

- 1- That APPELLANT is belongs to ministerial staff and is serving the respondent Department as Superintendent (BPS-17). That right from appointment till date the APPELLANT has served the respondent Department quite efficiently and up to the entire satisfaction of his superiors.

Filed to-day  
Registrar  
04/11/19

- 2- That vide Notification dated 27.7.2018 the appellant was elected as General Secretary of all Pakistan Clerks Association, Khyber Pakhtunkhwa (Province) for the period of three years. Copy of the Notification dated 27.7.2018 is attached as annexure ..... **A.**
- 3- That respondents inspite of knowing the fact that appellant is the office bearer of the APCA transferred the appellant from the office of Chief Engineer (North), C&W Department, Peshawar to the O/O Chief Engineer (East), Abbottabad vide impugned Notification dated 19.9.2018. Copy of the impugned Notification is attached as annexure ..... **B.**
- 4- That appellant feeling aggrieved preferred Departmental appeal before the appellate authority vide dated 25.9.2018 against the impugned Notification dated 19.9.2018. That appellant in his Departmental appeal had mentioned the Notifications of the Provincial Government dated 7.7.1992 and 18.8.1994 regarding prohibition of transfer during holding of office in association but inspite of that the respondents are not willing to cancel the impugned Notification dated 19.9.2018. Copies of the Departmental appeal and Notifications are attached as annexure ..... **C and D.**
- 5- That so much so the respondents instead of cancellation of impugned Notification the respondent No.3 issued another Notification dated 14.11.2018 whereby the appellant was further transferred/posted as Superintendent O/O the C&W Circle Abbottabad. Copy of the Notification dated 14.11.2018 is attached as annexure ..... **E.**
- 6- That this august Tribunal has also decided similar case/issue in appeal No.1333/2015 decided on 26.10.2017 entitled Abdul Hakeem VS Health Department. Copy of the judgment is attached as annexure ..... **F.**
- 7- That Appellant having no other remedy but to file the instant appeal on the following grounds amongst the others.

**GROUND:**

- A- That the impugned Notifications dated 28.9.2018 and 14.11.2018 issued by the respondents are 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.
- B- That APPELLANT has not been treated by the respondents in accordance with law and Rules on the subject noted above



and as such respondents violated Article 4 and 25 of the Constitution of Pakistan 1973:

- C- That the impugned Notifications dated 19.9.2018 and 14.11.2018 is against the Clause I, II and IV of the transfer/posting policy of the Government of Khyber Pakhtunkhwa. Copy of the policy is already attached as annexure ..... F.
- D- That the impugned Notifications dated 19.9.2018 and 14.11.2018 has not been issued by the respondents in the public interest nor exigencies of service.
- E- That the impugned Notifications dated 19.9.2018 and 14.11.2018 is violative of the Notifications of the provincial Governments as well as Judgment of this august Tribunal.
- F- That the respondent Department acted in arbitrary and malafide manner while issuing the impugned Notifications dated 19.9.2018 and 14.11.2018.
- G- That the APPELLANT seeks permission to advance other grounds and proofs at the time of hearing.

Dated: 1/1/2019

**APPELLANT**

  
**ZAHID HABIB**

**THROUGH:**

  
**NOOR MOHAMMAD KHATTAK  
ADVOCATE**

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

Appeal No. \_\_\_\_\_/2018

**ZAHID HABIB**

**VS**

**C&W DEPTT:**

**APPLICATION FOR SUSPENSION OF**  
**OPERATION OF THE IMPUGNED ORDER DATED**  
**19.09.2018 TILL THE DISPOSAL OF THE ABOVE**  
**MENTIONED APPEAL**

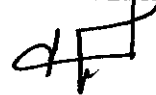
**R/SHEWETH:**

- 1- That the above mentioned appeal along with this application has been filed the appellant before this august service Tribunal in which no date has been fixed so far.
- 2- That appellant filed the above mentioned appeal against the impugned order dated 19.09.2018 whereby the appellant has been transferred from Office of the Chief Engineer (North) C&W Department Peshawar to Office of the Chief Engineer, East) C&W Abbottabad.
- 3- That all the three ingredients necessary for the stay is in favor of the appellant.
- 4- That the impugned order dated 19.09.2018 had been issued by the respondents in utter disregard of law and prevailing Rules.

It is therefore, most humbly prayed that on acceptance of this application the respondents may kindly be directed not to transfer the appellant from Office of the Chief Engineer (North) C&W Department, Peshawar till the disposal of the above mentioned appeal.

Dated: 02.01.2019

**APPLICANT**



**ZAHID HABIB**

**THROUGH:**



**NOOR MOHAMMAD KHATTAK**

**&**



**SHAHZULLAH KHAN YOUSAFZAI**  
**ADVOCATES**

# OFFICE OF THE ELECTION COMMISSIONER

All Pakistan Clerks Association (APCA) Khyber Pakhtunkhwa

**Muhammad Sareer Khan**  
Provincial President, KP  
Cell: 0300 598 5749

**Muhammad Aslam Khan**  
Central Chairman, Pakistan  
Cell: 0333 910 7636  
0314 903 3588

**Waheed Jan**  
Deputy Election Commissioner, KP  
Cell: 0333 9136878  
Email: waheedjan71.w@gmail.com

In accordance with the Article 17(a) of Constitution of the Islamic Republic of Pakistan and recognized by the Government of Pakistan Cabinet Secretariat (Establishment Division) vide No. 16/17/72-1915-12, 1972 and 16/17/73-0 Fi, Dated 09/04/1974, Islamabad

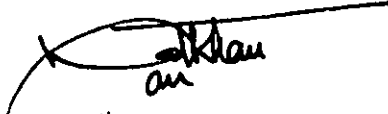
Ref: 786/APCA/DEC-18

Dated: 27/7/2018

## نوٹیفکیشن

(5) آل پاکستان کلرکس ایسوسی ایشن (ایپکا) کے ترمیمی آئین مجریہ 1991ء کے حاصل اختیارات اور صدر ایپکا خیر پختونخوا کے جاری کردہ مراسلہ نمبر 786/APCA/KPK مورخہ 22-01-2018 کی روشنی میں بحیثیت ڈپٹی ایگنیشن کمشنر ایپکا خیر پختونخوا ایگنیشن کوآرڈینیشن کے تحت ایگنیشن 2018-21 میں بلا مقابلہ کامیاب قرار پانے والے محکمہ سی اینڈ ڈبلیو، خیر پختونخوا کے عہدیداران کی فہرست جاری کرتا ہوں:

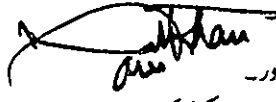
نمبر شمار	نام عہدیدار	عہدہ
1	فیصل مشتاق اعوان	چیئر مین
2	عبداللہ	صدر
3	نصرت گل	سینئر نائب صدر
4	شاد محمد	نائب صدر
5	زاہد حبیب	جنرل سیکرٹری
6	اظہار اللہ	ڈپٹی جنرل سیکرٹری
7	اختر زمان	فنانس سیکرٹری
8	عاطف اقبال	پریس سیکرٹری
9	فیاض احمد	رابطہ سیکرٹری / میڈیا کوآرڈینیٹر

  
وحید جان  
ڈپٹی ایگنیشن کمشنر ایپکا خیر پختونخوا

  
وحید جان

کاپی برائے اطلاع اور ضروری کارروائی:-

- ۱۔ جناب جسٹس (ر) دوست محمد خان صاحب، مگران وزیر اعلیٰ خیر پختونخوا۔
- ۲۔ جناب اسد قیصر صاحب، سیکرٹری صوبائی اسمبلی خیر پختونخوا۔
- ۳۔ جناب چیف سیکرٹری، خیر پختونخوا۔
- ۴۔ جناب سیکرٹری صاحب اسٹیبلشمنٹ خیر پختونخوا۔
- ۵۔ جناب سیکرٹری سی اینڈ ڈبلیو، خیر پختونخوا۔
- ۶۔ جناب رجسٹرار صاحب پشاور ہائی کورٹ پشاور۔
- ۷۔ جملہ کسٹرز/ڈپٹی کسٹرز/جملہ پولیٹیکل ایجنٹ صاحبان خیر پختونخوا۔
- ۸۔ جملہ ڈسٹرکٹ اینڈ سیشن ججز صاحبان خیر پختونخوا۔
- ۹۔ جملہ سپرنٹنڈنگ انجینئرز صاحبان، محکمہ سی اینڈ ڈبلیو، خیر پختونخوا۔
- ۱۰۔ جملہ چیف انجینئرز صاحبان (سنٹر، نارٹھ، قانامی ڈی او)، محکمہ سی اینڈ ڈبلیو، خیر پختونخوا۔
- ۱۱۔ جملہ ایگزیکٹو انجینئرز صاحبان، محکمہ سی اینڈ ڈبلیو، خیر پختونخوا۔
- ۱۲۔ جملہ مرکزی/صوبائی اضلعی/ایجنسیز/محکمہ صدر ایپکا پاکستان۔
- ۱۳۔ جملہ تین سربراہان AGECC خیر پختونخوا۔
- ۱۴۔ جملہ پرنٹ/الیکٹرونک میڈیا خیر پختونخوا پشاور۔
- ۱۵۔ جملہ آفس کاپی برائے ریکارڈ۔

  
وحید جان  
ڈپٹی ایگنیشن کمشنر ایپکا خیر پختونخوا



GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar the Sept 19, 2018

B-6

**NOTIFICATION:**

No. SOE/C&WD/24-60/2018:

The Competent Authority is pleased to transfer Mr. Zahid Habib Superintendent (BS-17) holding the additional charge of the post of Administrative Officer O/O Chief Engineer (North) C&W Peshawar and posted him as Administrative Officer (OPS) O/O Chief Engineer (East) C&W Abbottabad against the vacant post, with immediate effect, in the public interest.

SECRETARY TO  
Government of Khyber Pakhtunkhwa  
Communication & Works Department

Endst of even number and date

Copy is forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar
2. Chief Engineer (North) C&W Peshawar
3. Chief Engineer (East) C&W Abbottabad
4. District Accounts Officer Abbottabad
5. Incharge Computer Cell, C&W Department, Peshawar
6. PS to Secretary, C&W Department, Peshawar
7. Officer concerned
8. Office order File/Personal File

*Abdur Rashid Khan*  
(ABDUR RASHID KHAN)  
SECTION OFFICER (Estb)

Copy No.	3010
Date:	24/9/2018
Case No.	
CE (N)	
SE (N)	
CE (E)	
SE (E)	
AO	
BAO	
CO	
Signature	<i>[Signature]</i>

*Allested*  
*[Signature]*

To

The Secretary to Government of Khyber Pakhtunkhwa,  
Communication & works Department, Peshawar.

①  
25/09/18  
Diary No. 98  
BS

Subject: **DEPARTMENTAL APPEAL / PRESENTATION AGAINST THE POSTING ORDERS**

Honorable Sir,

I have the honor to submit that I was posted as Superintendent (BPS-17) in the office of the Chief Engineer (North), Communication & Works Department Peshawar vide your goodself Notification No.SOE/C&WD/24-60/2017-18/Supdt dated 10.05.2017 and as such I reported assumption in the said office on 16.05.2017, since then I remain posted as Superintendent with the additional charge of the post of Administrative Officer (North), Communication & Works Department from vide No. SOE/C&Wd/24-60/2017/AO dated 20.06.2017, including the period proceeding on Hajj for 40-days till 24.09.2018.

Sir, your goodself would realize that I have not completed the normal tenure as per policy of the Government of Khyber Pakhtunkhwa and to say with great sorry that I am posted out from Peshawar to Abbottabad under your kind direction vide Notification No.SOE/C&WD/24-60/2018 dated 19/09/2018 received on 24.09.2018 vide Diary No.3010.

It is also pointed out that against the Government Policy as mentioned in the Appointment Transfer Policy (APT) Rules section-I of XIV. Further also clear in constitution petition No.23 out of 2012 Suo Moto case No.3/2012 (Petition by M/S Aneeta Turab for protection of Civil Servant Registered under Article 184 (3) of the constitution of Islamic Republic of Pakistan 1973 which was also endorsed to this Department by the Government of Khyber Pakhtunkhwa vide letter No.SOR-VI(E&AD)1-4/2005/Vol-II dated 27.02.2013.

Sir, I could not understand that what were the circumstances which warranted my pre-mature transfer order when there is no fault on my part. Due to some wrong expression given to your kind honour, I am un-necessarily been put in mental agonies.

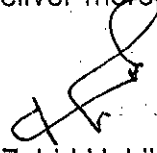
Sir, I also take the opportunity to invite your kind attention to point that I was, only victimized when there are other regular Administrative Officers who are working in the said Department since long even after their promotion to next tier which cannot be said a fair treatment and equality.

*Atiqul*  
*Atiqul*

3

Sir, under transfer posting policy of the Government of Khyber Pakhtunkhwa as desired in Para-01 sub-para (xiv) I prefer appeal with the request that the said transfer order may kindly be withdrawn being immature and I may please be allowed to continue my position which I was holding since before there.

For this act of kindness I assure you Sir, that I will deliver more scrupulously to the Department.



(Zahid Habib)  
Superintendent BPS-17  
Communication & Works Department

Attended  
4

BETTER COPY OF PAGE.....D-9

**OFFICE OF THE MINISTER FOR  
EDUCATION (SECONDARY/COLLEGES)**

**NO.PS/MIN/EDU/SC/NWFP/8-94/Kaka Khel/662**

**Dated Peshawar the 16<sup>th</sup> August 1994**

Please issue instructions to all the Divisional Directors of Education that not to transfer any office bearer of the Association in the light S&GAD's Letter No.SO(S&GAD)3-486 dated 25.3.1986 and subsequent letter No. SOS-IV (S&GAD) 8(167) 92-Vol-dated 7.7.1992. Moreover transfer orders already issued in respect of the office bearers of Swat, Lakki and Karak may be cancelled under intimation to this office accordingly.

**KHWAJA MOHAMMAD KHAN HOTI**

Director Education (S)

OFFICE OF THE DIRECTOR SECONDARY EDUCATION NWFP PESHAWAR

Endst: No. 4109-59/2/Circular Dated Peshawar the 18/8/1994.

Copy forwarded.

OFFICE OF THE MINISTER FOR  
EDUCATION (SECONDARY/COLLEGES)

D-90

NO. PS/MIN/EDU/SC/NWFP/8-94/Kaka Khal/652  
Dated Peshawar, the 16th Aug. 1994

Please issue instructions to all the Divisional Directors of Education that not to transfer any office bearer of the Association in the light S&GAD's letter No. SO(S&GAD)3-4/86 dated 25.3.1986 and subsequent letter No. SOS-IV (S&GAD)8(167) 92-Vol. dated 7.7.1992. Moreover transfer orders already issued in respect of the Office bearers of Swat, Lakki and Karak may be cancelled under intimation to this office accordingly.

Sd/-

HAWAJA MOHAMMAD KHAN HOTI

Director Education(S)

OFFICE OF THE DIRECTOR, SECONDARY EDUCATION NWFP PESHAWAR.

Encl: No. 4109-59/2/Circular Dated Peshawar the 18/8/1994.

Copy forwarded for information and strict compliance to the:-

1. Additional Directress/Director L/D.
2. All the Divl:Directors of Edu:(S) in NWFP.
3. All the DEO(M) and (F) Secondary in NWFP.
4. Administrative Officer L/D.
5. P.S to Minister for Edu:Secondary/Colleges NWFP.
6. President All teachers Association NWFP.
7. President Ministerial Staff Association Edu:Deptt: NWFP

*[Handwritten Signature]* 18/8/94

Additional Director (Secondary)  
For Director, Secondary Education NWFP  
Peshawar

*[Handwritten Signature]*  
*[Handwritten Signature]*

S&GAD  
Instructions  
Issued on



BETTER COPY OF PAGE- 10

**OFFICE OF THE MINISTER FOR  
EDUCATION (SECONDARY/COLLEGES**

**NO.PS/MIN/EDU/SC/NWFP/8-94/Kaka Khel**

**Dated Peshawar, the 16<sup>th</sup> Aug: 94.**

Please issue instructions to all the Divisional Director of Education that not to transfer any office bearer of the Association in the light S&GAD's letter No. SO(S&GAD) 3-4/86 dated 25-3-86 and subsequent letter No. SOS-IV(S&GAD)8(167)92-Vol, dated 7-7-1992. Moreover transfer orders already issued in respect of the Office bearers of Swat, Lakki and Karak may be cancelled under intimation to this office accordingly.

(KHWAJA MOHAMMAD NAWAZ HOTI)

DIRECTOR EDUCATION (S)



OFFICE OF THE MINISTER FOR  
EDUCATION, GOVERNMENT OF PAKISTAN  
ISLAMABAD

10

20

662

NO. PS/MIN/EDU/SC/MWFP/8-94/Kaka Sa  
Dated Peshawar, the 16th Aug:94. *kuil*

Please issue instructions to all the Divisional Director of Education that not to transfer any office bearer of the Association in the light S&GAD's letter No. SO(S&GAD) 3-4/86 dated 25-3-86 and subsequent letter No. SOS-IV(S&GAD)8(167)/92-Vol. dated 7-7-1992. Moreover transfer orders already issued in respect of the Office bearers of Swat, Lakki and Karak may be cancelled under intimation to this office accordingly.

*Khawaja*  
(KHAWAJA MOHAMMAD KHAN HOTI)

DIRECTOR EDUCATION(S).

Attested

*[Signature]* 17/8/94

Attested  
*[Signature]*

*[Signature]*



Dated Peshawar, the Nov 14, 2018

E-11

## NOTIFICATION:

No. SOE/C&W/4-2/2018 Supdt: On the recommendations of Departmental Promotion Committee (DPC), the Competent Authority has been pleased to promote the following Assistants/Senior Scale Stenographer to the post of Superintendent (BS-17) of C&W Department on regular basis, with immediate effect:

1.	Mr. Riaz Ahmad	---	On Regular Basis
2.	Mr. Karim Khan	---	On Regular Basis
3.	Mr. Hazrat Umer	---	On Regular Basis
4.	Mr. Inamullah Shah	---	On Regular Basis
5.	Mr. Amanat Ali Shah	---	On Regular Basis
6.	Mr. Fazal Hadi	---	On Regular Basis
7.	Mr. Yaseen Muhammad	---	On Regular Basis
8.	Mr. Jaffar Ali	---	On Regular Basis
9.	Mr. Mukaram Shah	---	On Regular Basis
10.	Mr. Abdus Sarnad	---	On Regular Basis
11.	Mr. Muhammad Shoaib-I	---	On Regular Basis
12.	Mr. Hanifullah Khan	---	On Regular Basis
13.	Mr. Nazir Muhammad	---	On Regular Basis

2. The Superintendents so promoted will be on probation for a period of one year, in terms of Section 6(2) of Khyber Pakhtunkhwa Civil Servants Act, 1973 read with Rule-15(1) of Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion & Transfer) Rules, 1989, while the Superintendents at Sr.No. 10 & 12 will be on probation till their retirements.

3. Consequent upon above promotions, the Competent Authority is pleased to order the posting/transfer of the following officers of C&W Department, in the public interest, with immediate effect:

Sl. No.	Name of Officers	Existing posting	Proposed for actualization/ Adjustment	Remarks
1	Riaz Ahmad Superintendent (BS-17)	S. Scale Stenographer O/O SE C&W Circle Swat	Superintendent O/O SE C&W Circle, Swat	Against vacant post
2	Karim Khan Superintendent (BS-17)	S. Scale Stenographer O/O SE C&W Circle Peshawar	Superintendent O/O Chief Engineer (North) C&W Peshawar to be vacated by Shah Zaman	---
3	Hazrat Umer Superintendent (BS-17)	S. Scale Stenographer O/O Chief Engineer (Merged Area KPK) Peshawar	Superintendent O/O Chief Engineer (Merged Area KPK) Peshawar	Against vacant post
4	Inamullah Shah Superintendent (BS-17)	Superintendent (OPS) O/O SE PBMC C&W Peshawar	Superintendent O/O SE PBMC C&W Peshawar	---
5	Amanat Shah Superintendent (BS-17)	S. Scale Stenographer O/O SE C&W Circle Manshera	Superintendent O/O CE (Centre) C&W Peshawar	Against vacant post
6	Fazal Hadi Superintendent (BS-17)	Superintendent (OPS) O/O SE C&W Circle Dir Lower	Superintendent O/O SE C&W Circle Dir Lower	---
7	Yaseen Muhammad Superintendent (BS-17)	Assistant O/O Chief Engineer (Merged Area KPK) Peshawar	Superintendent O/O Chief Engineer (Merged Area KPK) Peshawar	Against vacant post
8	Jaffar Ali Superintendent (BS-17)	Superintendent (OPS) O/O SE C&W Circle Peshawar	Superintendent O/O SE C&W Circle Peshawar	---
9	Mukaram Shah Superintendent (BS-17)	Budget & Accounts Officer (OPS) O/O CE (East) C&W Abbottabad	Superintendent O/O SE C&W Circle, Abbottabad for actualization of his promotion as (BS-17) on regular basis and reposted as Administrative Officer (OPS) O/O CE (East) C&W Abbottabad	Vice No.11
10	Abdul Hamid Assistant (BS-16)	Superintendent (OPS) O/O SE C&W Circle, Abbottabad	Budget & Accounts Officer (OPS) O/O CE (East) C&W Abbottabad	Vice No.9

*Signature*

P.T.O.

11	Zahid Habib Superintendent (BS-17)	Administrative Officer (OPS) O/O CIE (East) C&W Abbottabad	Superintendent O/O SE C&W Circle, Abbottabad	Vice No.10
12	Abdul Samad Superintendent (BS-17)	Assistant O/O SE C&W Circle Battagram	Superintendent O/O SE C&W Circle, Mansehra	Against vacant post
13	Muhamamd Shoaib-I Superintendent (BS-17)	Assistant O/O Deputy Director (North) PKHA Swat	Superintendent O/O SE C&W Circle, Mardan	--do--
14	Hanifullah Khan Superintendent (BS-17)	Assistant O/O SE C&W Circle Bannu	Superintendent O/O SE C&W Circle Bannu	--do--
15	Nazir Muhammad Superintendent (BS-17)	Assistant O/O SE C&W Circle Kohat	Superintendent O/O SE C&W Circle Kohat, relieving Muhammad Ashraf from additional charge	--do--

SECRETARY TO  
Government of Khyber Pakhtunkhwa  
Communication & Works Department

Endst of even number and date

Copy is forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar
2. Accountant General PR (sub office) Peshawar
3. Secretary (AI&C) Department Merged Area KPK Sectt Warsak Road, Peshawar
4. Chief Engineer (Centre/North) C&W Peshawar
5. Chief Engineer Merged Area KPK W&S Peshawar
6. Chief Engineer (East) C&W Abbottabad
7. Superintending Engineers C&W Circle concerned
8. District Accounts Officer concerned
9. PS to Secretary, C&W Department, Peshawar
10. PS to Minister for C&W Khyber Pakhtunkhwa Peshawar
11. PA to Deputy Secretary (Admn) C&W Department, Peshawar
12. Officers concerned
13. Office order File/Personal File

  
(ABDUR RASHID KHAH)  
SECTION OFFICER (Estb)

F-12-10

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 1333/2015

Date of Institution ... 24.11.2015

Date of Decision ... 26.10.2017



Abdul Hakeem, office Assistant (BPS-16) DHO Office, Hangu under transfer to Bannu Medical College, Bannu. ... (Appellant)

VERSUS

1. The Government of Khyber Pakhtunkhwa through Secretary Health Department, Peshawar and another. ... (Respondents)

MR. NOOR MUHAMMAD KHATTAK, ... For appellant  
Advocate

MR. MUHAMMAD JAN, ... For respondents.  
Deputy District Attorney,

MR. NIAZ MUHAMMAD KHAN, ... CHAIRMAN  
MR. GUL ZEB KHAN, ... MEMBER

**ATTESTED**  
  
**EXAMINER**  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

JUDGMENT

NIAZ MUIHAMMAD KHAN, CHAIRMAN.- Arguments of the

learned counsel for the parties heard and record perused.

FACTS

2. The appellant was transferred from the office of DHO, Hangu to Bannu Medical College, Bannu on 29.06.2015. Against this order, he filed departmental appeal (which is undated) which was not responded to and thereafter, the present service appeal on 24.11.2015.

ARGUMENTS.

3. The learned counsel for the appellant argued that the impugned\* transfer order was made on political interference and in this respect he referred to a letter of

(13) (14)

MPA dated 16.06.2015 addressed to the Director General, Health Services, Khyber Pakhtunkhwa, Peshawar. He further argued that the appellant was Office Bearer of APCA and could not be transferred during his tenure as Office Bearer in view of notification dated 25.03.1986 and 7.7.1992.

4. On the other hand, the learned Deputy District Attorney argued that the transfer orders were made in public interest. That it was a general transfer order of 42 civil servants. That the grounds taken today by the learned counsel for the appellant were not taken in departmental appeal.

### CONCLUSION.

5. The very letter of MPA as referred to by the learned counsel for the appellant is political interference and it is settled position of law that order passed on political interference cannot be sustained. The notifications of the Provincial Government regarding prohibition of transfer during holding of office in Association is another valid ground put forth by the learned counsel for the appellant.

6. Consequently, this appeal is accepted. Parties are left to bear their own costs. File be consigned to the record room.

Announced SD/- Niaz Muhammad Khan  
26-10-2017  
Chairman

SD/- Gulzar Khan  
Member

Certified to be true copy  
E. K. M. Khan  
Khyber Pakhtunkhwa  
Service Tribunal,  
Peshawar

Date of Presentation 16-11-17  
Number of Words 800  
Copying Fee 6  
Urgent  
Total 6  
Name of Copyist  
Date of Completion 21-11-17  
Date of Delivery of Copy 21-11-17



G-14

**GOVERNMENT OF NWFP  
ESTABLISHMENT & ADMINISTRATION  
DEPARTMENT  
(Regulation Wing)**

**POSTING / TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT.**

- i) All the posting/transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants
- ii) All Government servants are prohibited to exert political, Administrative or any other pressures upon the posting/transfer authorities for seeking 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) <sup>1</sup>{ }
- vi) While making postings/transfer from settled areas to FATA and vice-versa, specific approval of Governor, NWFP needs to be obtained  
  
<sup>2</sup>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-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.

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.  
2  
Added vide Urdu circular letter No. SOR-VI(E&AD)1-4/2003, dated 21-09-2004

*Attended*  
4

15

- 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  
<sup>1</sup>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)

- 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.



**VAKALATNAMA**

*Before the Khyber Pakhtunkhwa Service Tribunal*  
*Peshawar*

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

*Zahid Habib*

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

*CSW Deptt:*

(RESPONDENT)  
(DEFENDANT)

I/We *Zahid Habib*

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

*[Signature]*  
\_\_\_\_\_  
CLIENT

*[Signature]*  
**ACCEPTED**  
**NOOR MOHAMMAD KHATTAK**

*[Signature]*  
&  
**SHAHZULLAH KHAN**  
**ADVOCATES**

*[Signature]*  
**Mir Zaman Sefi**  
**Advocate**

OFFICE:  
Room No.1, Upper Floor,  
Islamia Club Building, Khyber Bazar,  
Peshawar City.  
Phone: 091-2211391  
Mobile No.0345-9383141

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Service Appeal No.10 OF 2019**

Zahid Habib,  
Superintendent

(Appellant)....

V/S

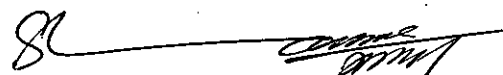
Secretary Communication & Works Department  
Peshawar & others

(Respondents)....

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S.NO.	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGE
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2	Affidavit	-	3
3	Section-10 of Civil servants Act, 1973	I	4-5

Deponent

  
Shams-Ul-Zaman (Shams),  
Section Officer (Lit)  
C&W Department Peshawar

(1)

**BEFORE THE KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL PESHAWAR**  
**APPEAL NO. 10 OF 2019**

Zahid Habib --- Appellant  
Superintendent O/O CE (East)  
C&W Abbottabad

**VERSUS**

1. Secretary to Govt of Khyber Pakhtunkhwa --- Respondents  
C&W Department, Peshawar
2. Chief Engineer (Centre)  
C&W Department, Peshawar
3. Chief Engineer (North)  
C&W Department, Peshawar
4. Chief Engineer (East)  
C&W Department, Abbottabad

**Joint Parawise Comments on behalf of Respondents No. 1 to 4**

Respectfully Sheweth

**Preliminary Objections**

1. That the appeal is not maintainable.
2. That the appellant has never challenged in time any order in which his rights were ignored
3. That the appeal is premature.
4. That the appellant has no cause of action and locus standi.
5. That the appeal is time barred.
6. That the appeal is liable to be rejected on ground of non-joinder and mis-joinder of necessary parties
7. That there is no final appellate order has been passed as required under Section-4 of Khyber Pakhtunkhwa Service Tribunal Act 1974. Hence the appeal is not maintainable.

**FACTS**

1. No comments pertains to record.
2. Incorrect, neither such documents of the APCA on the record of the Department nor it is mandatory.
3. Incorrect, the appellant was appointed as Assistant in C&W Department on 15.05.2009. From the initial appointment made on 15.05.2009, he was posted in Peshawar. Therefore the appellant served for more than 09 years beyond the normal tenure. Furthermore, as per Section-10 of Civil Servants Act, 1973) **“every civil servant shall be liable to serve anywhere within or outside the province, in any post under the Federal Govt, or any Provincial Govt or Local Authority, or a Corporation or body setup or establishment by any such Government” (Annex-I).**
4. Departmental appeal was received, which was processed in the Department and filed by the Competent Authority having no merit.
5. Incorrect, every authority in the Government, always follows the Government orders, rules and regulation at all the time in its true spirit. The appellant has served more than 09 years at one station as Assistant/Head Clerk and Superintendent. Therefore, the transfer orders were issued in the interest of public service. Furthermore, any office bearer of any Association does not entitle him to serve for ever on the same station.

6. No comments

7. No comments

**GROUND**

- A. Incorrect. No discrimination or unlawful action had been taken against the appellant.
- B. Incorrect. Misconceiving and not tenable. The appellant has been treated as per law/rules and regulations laid down by the Government.
- C. Incorrect, the plea taken by the appellant is contradictory with the posting/transfer policy.
- D. Incorrect. As stated in para-5 of the facts, the appellant has already completed the tenure for more than 09 years .
- E. Incorrect, as explained in Para-3 of the facts.
- F. Incorrect and misconceiving on the basis of his speculations.
- G. The Respondents would like to seek permission of this Hon'able Tribunal to advance more grounds during the time of arguments.

In view of the above, it is submitted that the Appeal may kindly be dismissed with cost.

**SECRETARY TO**  
Govt of Khyber Pakhtunkhwa  
C&W Peshawar  
(Respondent No. 1)

**CHIEF ENGINEER (CENTRE)**  
C&W Peshawar  
(Respondents No. 2)

**CHIEF ENGINEER (NORTH)**  
C&W Peshawar  
(Respondent No. 3)

**CHIEF ENGINEER (EAST)**  
C&W Abbottabad  
(Respondents No. 4)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR**

**Service Appeal No.10 OF 2019**

Zahid Habib,  
Superintendent

(Appellant)....

V/S

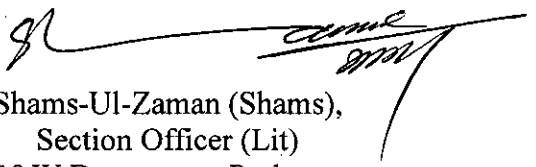
Secretary Communication & Works Department  
Peshawar & others

(Respondents)....

**AFFIDAVIT**

I, Mr. Shams-Ul-Zaman (Shams) Section Officer (Litigation) C&W Department Peshawar hereby affirm and declare that all the contents of the reply / comments are correct to the best of my knowledge and belief and nothing has been concealed.

Deponent

  
Shams-Ul-Zaman (Shams),  
Section Officer (Lit)  
C&W Department Peshawar

Annex-I  
7

4

THE NWFP CIVIL SERVANTS ACT, 1973  
(N.W.F.P. Act No. XVIII of 1973)

An Act to regulate the appointment of persons to, and the terms and conditions of service of persons in, the service of the North West Frontier Province.

Preamble- *WHEREAS* it is expedient to regulate by law, the appointment of persons to, and the terms and conditions of service of persons in, the service of the North West Frontier Province; and to provide for matters connected therewith or ancillary thereto;

It is hereby enacted as follows:-

1. **Short title, application and commencement:-** (1) This Act may be called the North West Frontier Province Civil Servants Act, 1973.

(2) This section and section 25, shall apply to persons employed on contract, or on work charged basis, or who are paid from contingencies, and the remaining provisions of this Act including this section, shall apply to all civil servants wherever they may be.

3) It shall come into force at once.

CHAPTER-I

PRELIMINARY

2. **Definitions:-** (1) In this Act, unless the context otherwise requires the following expressions shall have the meanings hereby respectively assigned to them, that is to say-

(a) "ad hoc appointment" means appointment of a duly qualified person made otherwise than in accordance with the prescribed method of recruitment, pending recruitment in accordance with such method,

(b) "civil servant" means a person who is a member of a civil service of the Province, or who holds a civil post in connection with the affairs of the Province, but does not include-

(i) a person who is on deputation to the Province from the Federation or any other Province or other authority;

(ii) a person who is employed on contract, or on work charged basis, or who is paid from contingencies; or

(iii) a person who is a "worker" or "workman" as defined in the Factories Act, 1934 (Act XXV of 1934), or the Workman's Compensation Act, 1923 (Act VIII of 1923);

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

(3) Seniority on initial appointment to a service, [cadre] or post shall be determined as may be prescribed.

(4) Seniority in a post, service or cadre to which a civil servant is promoted shall take effect from the date of regular appointment to that post;

Provided that civil servants who are selected for promotion to a higher post in one batch shall, on their promotion to the higher post, retain their inter-se-seniority as in the lower post.

(5) The seniority lists prepared under sub-section (1), shall be revised and notified in the official Gazette at least once in a calendar year, preferably in the month of January.

9. **Promotion:**-(1) A civil servant possessing such minimum qualifications as may be prescribed, shall be eligible for promotion to a [higher] post for the time being reserved under the rule for departmental promotion in [ ] the service or cadre to which he belongs.

(2) A post referred to in sub-section (1) may either be a selection post or a non-selection post to which promotion shall be made as may be prescribed-

(a) in the case of a selection post, on the basis of selection on merit; and

(b) in the case of non-selection post, on the basis of seniority-cum-fitness.

10. **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 his 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.

11. **Termination of service:**-(1) The service of a civil servant may be terminated without notice-

(i) During the initial or extended period of his probation;

Provided that, where such civil servant is appointed by promotion on probation or, as the case may be, is transferred from one [service], cadre or post to another [service], cadre or post, his service shall not be so terminated so long as he

The word "grade" substituted by NWFP Ordinance No IV of 1985

Sub section (4) of Sec-8 substituted by NWFP Ordinance No. IV of 1985

Sub section (5) of Sec-8 added by NWFP Act No 1 of 1989

The word "higher" inserted by NWFP Ordinance No IV of 1985

The words "the higher grade of" omitted by NWFP Ordinance No IV of 1985


12.09.2019

Learned counsel for the petitioner present. Mr. Riaz Khan  
Paindakheil learned Assistant Advocate General present.

Learned counsel for the petitioner stated that the petitioner is  
no more interested in the present COC application.

In view of above, the present petition be consigned to the  
record room being not pressed.

  
(Hussain Shah)  
Member

  
(Muhammad Hamid Mughal)  
Member

ANNOUNCED.  
12.09.2019



26.03.2019

Learned counsel for the appellant and Mr. Riaz Paindakhel learned Assistant Advocate General alongwith Mr. Shams Ur Rehman Section Officer for the respondents present. To come up for reply/arguments on 09.04.2019 before D.B.

  
(Hussain Shah)  
Member

  
(Muhammad Amin Khan khudi)  
Member

09.04.2019

Applicant with counsel present. Since learned counsel for the applicant seeks adjournment to argue the service appeal hence to come up alongwith service appeal <sup>reply</sup> for arguments on 30.04.2019 before D.B.

  
Member

  
Member

30.04.2019

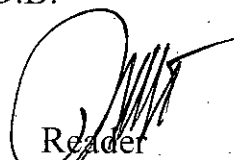
Applicant with counsel and Mr. Muhammad Jan learned Deputy District Attorney alongwith Mehboob Kamal J.C present. Adjourn. To come up alongwith main service appeal for reply and arguments on 27.06.2019 before D.B.

  
Member

  
Member

27.06.2019

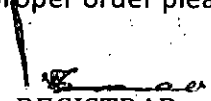


Counsel for the Petitioner and Addl. AG for the respondents present. Due to incomplete bench case is adjourned to ~~12-9-2019~~ for further proceedings alongwith main appeal before the D.B.

  
Reader

## FORM OF ORDER SHEET

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

C.O.C Application No. 119/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	18/02/2019	<p>The C.O.C application of Mr. Zahid Habib submitted today through Noor Muhammad Khattak Advocate, may be entered in the relevant Register and put up to the Court for proper order please.</p> <p style="text-align: right;"> REGISTRAR 18/2/19</p>
2-		<p>This C.O.C application be put up before S. Bench on <u>5-3-2019</u></p> <p style="text-align: right;"> CHAIRMAN</p>
05.03.2019		<p>Clerk to counsel for the applicant present. Notice of the present application be issued to the respondent for 12.03.2019 before S.B. To come up for reply and arguments on the date fixed.</p> <p style="text-align: right;"> Member</p>
12.03.2019		<p>Junior to counsel for the appellant and Mr. Kabir Ullah Khattak learned Additional Advocate General alongwith Abbas S.C present. To come up for further proceedings alongwith main appeal as per preceding order sheet on 26.03.2019.</p> <p style="text-align: right;">Member</p>

**IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

COC NO. 119 /2019

**IN**  
**APPEAL NO.10/2019**

**ZAHID HABIB**

**VS**

**SHAHAB KHATTAK**  
**& 1 OTHER**

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4-	Vakalat nama	.....	6.

**PETITIONER/APPLICANT**

**THROUGH:**

**NOOR MOHAMMAD KHATTAK**  
**ADVOCATE**

**MOBILE NO.0345-9383141**

**IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

COC NO. 119 /2019

IN  
APPEAL NO.10/2019



Mr. Zahid Habib, Superintendant/Admin Officer (BPS-17),  
O/O the Chief Engineer (North) C&W Department  
Peshawar..... **APPLICANT/ PETITIONER**

**VERSUS**

- 1- Engineer Shahab Khattak, Secretary C&W Department, Khyber Pakhtunkhwa, Peshawar.
- 2- Engineer Muhammad Tariq, Chief Engineer (North), C&W Department, Khyber Pakhtunkhwa, Peshawar.

..... **RESPONDENTS/ CONTEMNORS**

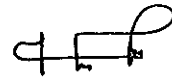
**APPLICATION FOR INITIATING CONTEMPT OF COURT PROCEEDINGS AGAINST THE RESPONDENTS/ CONTEMNORS**

**R/SHEWETH:**

- 1- That the applicant/ petitioner had filed service appeal No. 10/2019 before this august Tribunal against the impugned order dated 19.09.2018 whereby the applicant/petitioner has been transferred to the Office of Chief Engineer (East) (C&W), Abbottabad.
- 2- That vide order dated 16.01.2019 this august Tribunal suspended the impugned order dated 19.09.2018. Copy of the order sheet is attached as annexure ..... **A.**
- 3- That after obtaining the attested copy of the order dated 16.01.2019, the applicant/petitioner submitted the said order of this august Tribunal before the respondents/ contemnors for implementation but till date the order of this august Tribunal has not been implemented by the respondents.
- 4- That the inaction of the Respondents/Contemnors by not implementing the order of this august Tribunal is squarely fall within the ambit of the Contempt of Court and as such they are liable to be proceeded for the Contempt and for the punishment under the law.

It is therefore, most humbly prayed that on acceptance of this application, the Contempt of Court proceedings may graciously be initiated against the Respondents/Contemnors and they may be punished accordingly.

**APPLICANT/ PETITIONER**



**ZAHID HABIB**

**THROUGH:**

**NOOR MOHAMMAD KHATTAK**



**MIR ZAMAN SAFI  
ADVOCATES**

**IN THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL**  
**PESHAWAR**

COC NO. \_\_\_\_\_/2019

IN  
APPEAL NO.10/2019

**ZAHID HABIB**

**VS**

**SHAHAB KHATTAK**  
**& 1 OTHER**

**AFFIDAVIT**

I Noor Mohammad Khattak Advocate on the instructions and on behalf of the petitioner do hereby solemnly affirm that the contents of this COC are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.



  
**NOOR MOHAMMAD KHATTTAK**  
**ADVOCATE**

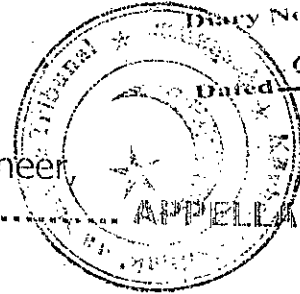
A-4

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL  
PESHAWAR**

APPEAL No. 10 /2019

Khyber Pakhtunkhwa  
Service Tribunal

Mr. Zahid Habib, Superintendent (BPS-17),  
O/O Chief Engineer (North) C&W Department,  
Peshawar under transfer to the O/O Chief Engineer  
East) C&W Abbottabad .....



**VERSUS**

- 1- The Government of Khyber Pakhtunkhwa through Secretary C&W Department, Khyber Pakhtunkhwa, Peshawar.
- 2- The Chief Engineer (Centre/North), C&W Department, Khyber Pakhtunkhwa, Peshawar.
- 3- The Chief Engineer (East), C&W Abbottabad.

..... **RESPONDENTS**

**APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT, 1974 AGAINST THE IMPUGNED NOTIFICATIONS DATED 19.9.2018 AND 14.11.2018 WHEREBY THE APPELLANT HAS BEEN TRANSFERRED IN UTTER VIOLATION OF LAW, RULES AND POLICY OF THE PROVINCIAL GOVERNMENT OF KHYBER PAKHTUNKHWA AND AGAINST NOT TAKING ACTION ON THE DEPARTMENTAL APPEAL OF APPELLANT WITHIN THE STATUTORY PERIOD OF NINETY DAYS**

**PRAYER:** That on acceptance of this appeal the impugned Notifications dated 19.9.2018 and 14.11.2018 may kindly be set aside to the extent of appellant and the appellant may not be transferred from the post of Superintendent (BPS-17, O/O the Chief Engineer (North), C&W Department, Peshawar. Any other remedy which this august Tribunal deems fit that may also be awarded in favor of the appellant.

**Filed to-day**

**Registrar**

04/11/19

**R/SHEWETH:**

**ON FACTS:**

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

That APPELLANT is belongs to ministerial staff and is serving the respondent Department as Superintendent (BPS-17). That right from appointment till date the APPELLANT has served the respondent Department quite efficiently and up to the entire satisfaction of his superiors.

**Certified to be a true copy**

**Khyber Pakhtunkhwa  
Service Tribunal  
Peshawar**

15.01.2019

Counsel for the appellant present.

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It was argued that the appellant was posted as Superintendent BPS-17 in the office of Chief Engineer (North) C&W Department Peshawar under notification dated 10.05.2017 and in pursuance thereof he assumed the charge on 16.05.2017. On 19.09.2018 the appellant was transferred as Administrative Officer (OPS) in the office of Chief Engineer (East) C&W Abbottabad. The said act on the part of respondents was not only violative of the Provincial Government posting/transfer policy dated 10.01.2009 but was also in dis-regard to the notification of the Provincial Government dated 16.08.1994. The later pertains to restriction on transfer of office bearers of Association during their tenure as such. In the said regard judgment passed by this Tribunal in Appeal No. 1333/2015 was also relied upon.

In view of the averments of learned counsel and material placed on record instant appeal merits admission for regular hearing. Admit. 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 06.02.2019 before S.B.

The appeal is accompanied by an application for suspension of operation of the impugned order dated 19.09.2018. Notice of application be also given to the respondents. The operation of impugned order shall remain suspended till the next date of hearing.

Appellant Deposited Security & Process Fee

Date of Appeal ..... 18-2-2019

Number of words ..... 800

Copying Fee ..... 0

Stamp ..... 25

Total ..... 25

Name of Counsel/Agent ..... [Signature]

Date of Copying ..... 18-2-2019

Date of Delivery of Copy ..... 18-2-2019

[Signature]  
Chairman

Certified to be true copy

[Signature]  
Khyber Pakhtunkhwa Service Tribunal, Peshawar



**VAKALATNAMA**

Before The KP Service Tribunal Peshawar

AD COC No. \_\_\_\_\_/2019

Zahid Habib

(APPELLANT)  
(PLAINTIFF)  
(PETITIONER)

**VERSUS**

Shahab Khattak & others

(RESPONDENT)  
(DEFENDANT)

I/We Zahid Habib

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

[Signature]  
CLIENT

**ACCEPTED**  
**NOOR MOHAMMAD KHATTAK**  
[Signature]  
**SHAHZULLAH KHAN YOUSAFZAI**

[Signature]  
**MIR ZAMAN SAFI**  
**ADVOCATES**

**OFFICE:**

Room No.1, Upper Floor,  
Islamia Club Building, Khyber Bazar,  
Peshawar City.  
Phone: 091-2211391  
Mobile No.0345-9383141



GOVERNMENT OF KHYBER PAKHTUNKHWA  
COMMUNICATION & WORKS DEPARTMENT

Dated Peshawar the April 08, 2019

**NOTIFICATION:**

**No.SO.E/C&WD/24-60/2019 Supdt:** The Competent Authority is pleased to order the following posting/transfer amongst the Superintendents of C&W Department, with immediate effect, in the public interest:-

Sl. No.	Name & Designation	From	To	Remarks
1	Mr. Karim Khan Supdt BS-17	Superintendent O/O CE (North) C&W Peshawar	Superintendent O/O CE (Centre) C&W Peshawar	Against vacant post
2	Mr. Zahid Habib Supdt BS-17	Superintendent O/O SE C&W Circle, Abbottabad	Superintendent O/O CE (North) C&W Peshawar	Vice No.1

CRETARY TO  
Government of Khyber Pakhtunkhwa  
Communication & Works Department

Endst of even number and date

Copy is forwarded to the:-

1. Accountant General Khyber Pakhtunkhwa Peshawar
2. Chief Engineer (Centre/North) C&W Peshawar
3. Chief Engineer (East) C&W Abbottabad
4. Superintending Engineer C&W Circle Abbottabad
5. District Accounts Officer Abbottabad
6. PS to Secretary, C&W Department, Peshawar
7. Officers concerned
8. Office order File/Personal File

  
(ABDUR RASHID KHAN)  
SECTION OFFICER (Estb)