

Sr. No	Date of order/ proceedings	Order or other proceedings with signature of Judge or Magistrate
1	2	3
	02.03.2016	<p><u>BEFORE THE KPK SERVICE TRIBUNAL, PESHAWAR</u></p> <p>Appeal No. 432/2015</p> <p>Mst. Shaheen Rahman Versus Addl. Chief Secretary, FATA, Peshawar etc.</p> <p><u>JUDGMENT</u></p> <p><u>PIR BAKHSH SHAH, MEMBER.-</u> Counsel for the appellant (Mr. Noor Muhammad Khattak, Advocate) and Asstt. A.G (Mr. Kabeerullah Khattak) with Daud Jan, Head Clerk for the official respondents and counsel for private respondent No. 4 (Mr. Sajid Amin, Advocate) present.</p> <p>2. Arguments heard and record perused.</p> <p>3. Vide order dated 12.09.2014, the appellant Mst. Shaheen Rahman, Principal (BS-18) was posted at GGHS, Subhan Khwar, Mohmand Agency wherefrom vide impugned order dated 11.02.2015, she was posted out from the said school and transferred to GCET (F) Jamrud, Khyber Agency against a vacant post of Vice Principal (BS-18). In her place private respondent No. 4 Mst. Zahida Parveen, Principal (BS-18) was transferred from GGHSS Ghallanai, Mohmand Agency. Feeling aggrieved, the appellant submitted departmental appeal on 12.2.2015 but in vain, hence this appeal under Section 4 of the Khyber</p>

Pakhtunkhwa Service Tribunal Act, 1974.

4. The learned counsel for the appellant submitted that the appellant is at the verge of retirement and is going to be retired in the end of this year, has been posted out against the government posting/transfer policy and exposed to unnecessary fatigue. It was further submitted that the appellant has been transferred in violation of the tenure policy, therefore, the impugned order is liable to cancellation on the touch stone of the principles drawn in the case of Anita Turab. It was also argued that the appellant is a lady of old age who is widow and who is issueless and as she is happy at GGHS, Subhan Khwar, Mohmand Agency, therefore, on humanitarian ground the appellant should not have been transferred from the said school.

5. The learned counsel for private respondent No. 4 and learned Asstt. A.G resisted the appeal on the ground that private respondent No. 4 is also a lady of old age who is also at the verge of retirement this year and as a civil servant is required to serve anywhere in the province, therefore, the instant appeal may be dismissed.

6. After hearing pro & contra arguments and perusal of the record, it was found that the appellant has been transferred before completion of her normal tenure. It revealed that there was no complaint whatsoever, against the appellant and the impugned order being a non-speaking

order seems to have been passed in order to accommodate private respondent No.4, therefore, the impugned order being injurious to the appellant, conveys that the same has not been passed in the public interest. Consequently, the Tribunal is constrained to set aside the impugned order dated 11.02.2015 which is set aside. During the course of arguments, the appellant was stated to be still working in GGHS Subhan Khwar, Mohmand Agency, therefore, she is left to continue. She cannot be transferred but only in public interest and in accordance with law/regulation. The appeal is disposed off accordingly. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED
02.03.2016


(ABDUL LATIF)
MEMBER


(PIR BAKHSH SHAH)
MEMBER

29.2.2016

Counsel for the appellant, Mr Muhammad Jan, GP with Daud Jan, Head Clerk for the official respondents and counsel for private respondent No. 4 present. Learned counsel for the respondents submitted that due to stay order in her favour, the appellant is not interested in proceedings of the case as a result private respondent is badly suffered. On the other hand learned counsel for the appellant while appearing after 2.00 PM, requested for adjournment to go back and other cases in the hon'ble High Court. The Tribunal is constrained to adjourn the case, however, the case be fixed on priority basis for 02.3.2016 for arguments. Till then status quo is extended.



MEMBER


MEMBER

17.11.2015

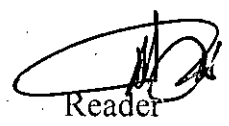
Counsel for the appellant and Mr. Hameed-ur-Réhman, AD (lit.) alongwith Usman Ghani, Sr. GP for official respondents No. 1 to 3 present. Counsel for private respondent No. 4 is not in attendance today therefore, case is adjourned to 16-12-15 for arguments. Status-quo be maintained till the date fixed.


MEMBER


MEMBER

16.12.2015

Since 16.12.2015 has been declared as local holiday therefore case is adjourned to for the same 21-1-2016


Reader

21.01.2016

Appellant in person and Mr. Daud Jan, Supdt: alongwith Addl: AG for respondents present. Due to general strike of legal fraternity, counsel for the appellant is not available. Therefore, the case is adjourned to 29-2-16 for arguments. Status-quo be maintained.


MEMBER


MEMBER

5

15.07.2015

Counsel for the appellatant, Addl: A.G for official respondents No. 1 to 3 and Mr. Aman Ali Sher on behalf of private respondent No. 4 present. Official respondents requested for further adjournment. Last opportunity granted. To come up for written reply/comments on behalf of official respondents No. 1 to 3 on 26.8.2015 before S.B. Status-quo be maintained.


Chairman

6

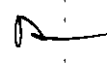
26.08.2015

Counsel for the appellatant and Mr. Daud Jan, Supdt. alongwith Addl: A.G for official respondents No. 1 to 3 present. Para-wise comments submitted. The appeal is assigned to D.B for rejoinder and final hearing for 21.9.2015. Status-quo be maintained.


Chairman

21.09.2015

Counsel for the appellatant and Mr. Ziaullah, GP for respondents present. Rejoinder submitted on behalf of the appellatant which is placed on file. To come up for arguments on 16-10-15. Status-quo be maintained.


Member


Member

16.10.2015

Counsel for the appellatant and Mr. Ziaullah, GP for the official respondents and clerk of counsel for private respondent No. 4 present. Counsel for private respondent No. 4 is not available, therefore, case is adjourned to 17-11-15 for arguments. Status quo be maintained till the date fixed.


MEMBER


MEMBER

3

15.05.2015

Appellant with counsel present. Learned counsel for the appellant argued that the appellant was serving at GGHS Subhan Khwar, Mohmand Agency and vide impugned order dated 11.2.2015 she was illegally transferred to GCET (F) Jamrud Khyber Agency in respect of which she preferred departmental appeal on 12.2.2015 which was not responded and hence the instant service appeal on 12.5.2015.

That the pre-mature transfer of the appellant is violative of clause-I, IV and XI of transfer/posting policy of the Government of KPK and that apart from a female officer she is also at the verge of retirement.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for 11.6.2015 before S.B. Notice of stay application be also issued for the date fixed. Till then status-quo be maintained.

Appellant Deposited
Security & Process Fee

Chairman

4

11.06.2015

Counsel for the appellant, Daud jan, Supdt. alongwith Addl: A.G for official respondents No. 1 to 3 and private respondents No. 4 with counsel present. Wakalat Nama alongwith written statement by respondent No. 4 submitted, while learned Addl: A.G requested for submission of written reply on behalf of official respondents No. 1 to 3. To come up for written reply/comments on behalf of official respondents No. 1 to 3 on 15.7.2015 before S.B. Status-quo be maintained.

Chairman

Form- A

FORM OF ORDER SHEET

Court of _____

Case No. _____

432/2015

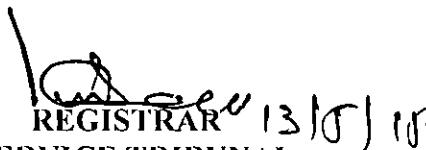
S.No.	Date of order Proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	13.05.2015	<p>The appeal of Mr. Mst. Shaheen Rehman resubmitted today by Mr. Noor Muhammad Khattak Advocate, may be entered in the Institution register and put up to the Worthy Chairman for proper order.</p> <p style="text-align: right;"><i>[Signature]</i> REGISTRAR 13/5/15</p>
2		<p>This case is entrusted to S. Bench for preliminary hearing to be put up thereon <u>15-5-2015</u>.</p> <p style="text-align: right;"><i>[Signature]</i> CHAIRMAN</p>

This is an appeal filed by Mst. Shaheen Rehman today on 12/05/2015 against the order dated 11.02.2015 against which she preferred/made a departmental appeal on 12.02.2015 the period of ninety days is not yet lapsed as per section 4 of the Khyber Pakhtunkhwa Service Tribunal Act 1974, which is premature as laid down in an authority reported as 2005-SCMR-890.

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

No. 722/ST.

Di. 13/5/2015


REGISTRAR 13/5/15
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

Mr. Noor Muhammad Khattak Adv. Pesh.

Note:

Sir,
After maturity of the appeal the same
is hereby re submitted to day dt: 13/5/15.


13/5/15

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 432 /2015

SHAHEEN REHMAN

VS

A.C.S FATA

INDEX

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6.	Departmental appeal	D	8.
7.	Transfer/ posting policy	E	9- 11.
8.	Court fee	12.
9.	Vakalat nama	13.

APPELLANT

THROUGH:


NOOR MUHAMMAD KHATTAK
ADVOCATE

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 432 /2015

Mst: Shaheen Rehman, Principal (BPS-18),
GGHS Subhan Khwar Mohmand Agency, Under transfer
to GCET (F) Jamrud, Khyber Agency.

N.W.F. Province
Service Tribunal
Diary No. 502
Dated 12-5-2015

..... APPELLANT

VERSUS

- 1- The Additional Chief Secretary FATA, FATA Secretariat Warsak Road, Khyber Pakhtunkhwa, Peshawar.
- 2- The Secretary Social Sector FATA, FATA Secretariat Warsak Road, Khyber Pakhtunkhwa, Peshawar.
- 3- The Director FATA (E&SE) Department, FATA Secretariat Warsak Road, Khyber Pakhtunkhwa, Peshawar.
- 4- Mst: Zahida Parveen, Principal (BPS-18), GGHS Ghallanai Mohmand Agency, Under transfer to GGHS Subhan Khwar, Mohmand Agency.

..... RESPONDENTS

APPEAL UNDER SECTION-4 OF THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974 AGAINST THE IMPUGNED ORDER DATED 11-02-2015 WHEREBY THE APPELLANT WAS TRANSFERRED FROM GGHS SUBHAN KHWAR MOHMAND AGENCY TO GCET (F) JAMRUD KHYBER AGENCY PRE MATURELY AND INVIOLATION OF TRANSFER/ PORTING POLICY AND AGAINST NOT TAKING ACTION ON DEPARTMENTAL APPEAL OF THE APPELLANT WITH IN STATUTORY PERIOD OF NINETY DAYS

PRAYER:

That on acceptance of this appeal the impugned transfer order dated 11-02-2015 may very kindly be set aside and the respondents may be directed that not to transfer the appellant from GGHS Subhan Khwar, Mohmand Agency to GCET (F) Jamrud Khyber Agency till completion of her normal tenure. Any other remedy which this august Tribunal deems fit may also be awarded in favor of appellant.

Filed to file
12/5/15

Co-submitted to-407
and filed.

Registered 12/5/15

R.SHEWETH:
ON FACTS:

- 1- That appellant is the employee of the respondent Department and has served the respondent Department for quite considerable time quite efficiently and up to the entire satisfaction of her superiors. That appellant is at the verge of retirement and she is going to be retired on superannuation basis in the year 2017. Copy of the CNIC is attached as annexure **A.**
- 2- That presently the appellant is serving the respondent Department in BPS-18 as principal. That appellant has recently been posted at GGHS Subhan Khwar Mohmand Agency vide order dated 12.9.2014. That in response to the said transfer order dated 12.9.2014 the appellant submitted her charge report and started performing her duty quite efficiently and up to the entire satisfaction of her superiors. Copy of the transfer order is attached as annexure **B.**
- 3- That appellant while serving the respondent Department as Principal (BPS-18) at GGHS Subhan Khwar Mohmand Agency astonishingly another order dated 11.2.2015 was issued by the respondent No.3 (which is in fact not competent to issue such like order) due to which the appellant was pre maturely transferred to GCET (F) Jamrud Khyber Agency. Copy of the impugned transfer order is attached as annexure **C.**
- 4- That it is pertinent to mention that appellant is widow having 59 years of age and having no male or female child or any other person to look after her. That feeling aggrieved the appellant filed Departmental appeal before the respondent No.1 on the belligerent violation committed by the respondent No.3 by issuing the impugned transfer order dated 11.2.2015 but till date no reply has been received so far. Copy of the Departmental appeal is attached as annexure **D.**
- 5- That appellant having no other efficacious remedy filed the instant appeal inter alia on the following grounds.

GROUND:

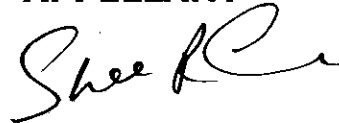
- A- That the impugned order dated 11.2.2015 is against the law, facts, norms of natural justice and materials on the record hence not tenable and liable to be set aside.
- B- That the petitioner has not been treated by the respondents in accordance with law and rules on the subject noted above and as such the respondents

violated article 4 and 25 of the Constitution of Islamic Republic of Pakistan 1973.

- C- That the impugned transfer order dated 11-2-2015 is against the clause I, IV and XI of the transfer/ Posting policy of the Government of Khyber Pakhtunkhwa. (Copy of Transfer/Posting policy is attached as annexure **E.**
- D- That the impugned order dated 11-2-2015 has not been issued in the public interest nor in exigencies of service.
- E- That the impugned transfer order dated 11.2.2015 is pre mature, therefore not tenable and liable to be set aside.
- F- That appellant is at the verge of retirement, therefore under the law and transfer/ posting policy of the provincial Government the impugned order dated 11.2.2015 is not tenable and liable to be set aside.
- G- That the respondents acted in arbitrary and malafide manner while issuing the impugned transfer order dated 11.2.2015.
- H- That the education Department acted in uneducated manner by ignoring the fact that the appellant is going to be retired on superannuation basis in 2017.
- I- That the appellant seeks permission to advance other grounds and proofs at the time of hearing.

Dated:12.5.2015

APPELLANT



SHAHEEN REHMAN

THROUGH:



**NOOR MOHAMMAD KHATTAK
ADVOCATE**

BEFORE THE KHYBER PAKHTUNKHEWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO _____/2015

SHAHEEN REHMAN

VS

A.C.S FATA

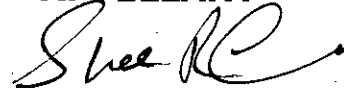
APPLICATION FOR SUSPENSION OF OPERATION
OF IMPUGNED ORDER DATED 11.2.2015 TILL
THE DISPOSAL OF THIS APPEAL

R/SHEWETH:

- 1- That the appellant filed above mentioned appeal along with this application before this august service Tribunal in which no date has been fixed so for.
- 2- That all the three ingredients necessary for the stay is in favor of the appellant.
- 3- That the transfer of the appellant is against the transfer policy of the Government of Khyber Pakhtunkhwa and the impugned transfer order dated 11.2.2015 is also not issued in the public interest nor exigencies of public service.
- 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 transfer order dated 11.2.2015 may very kindly be suspended till disposal of this appeal.

APPELLANT



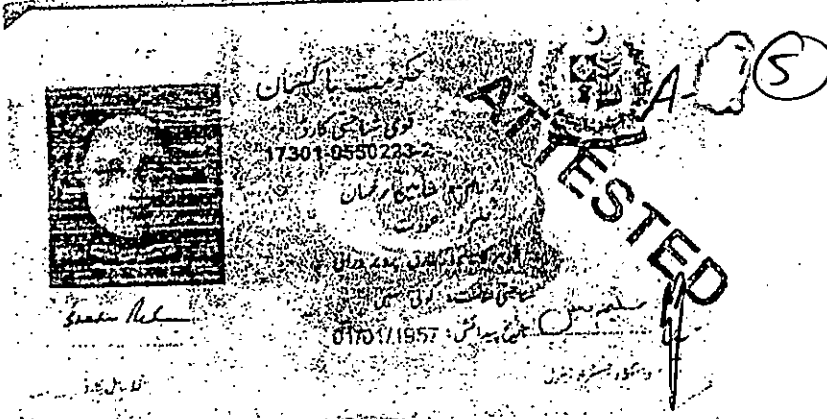
SHAHEEN REHMAN

THROUGH:



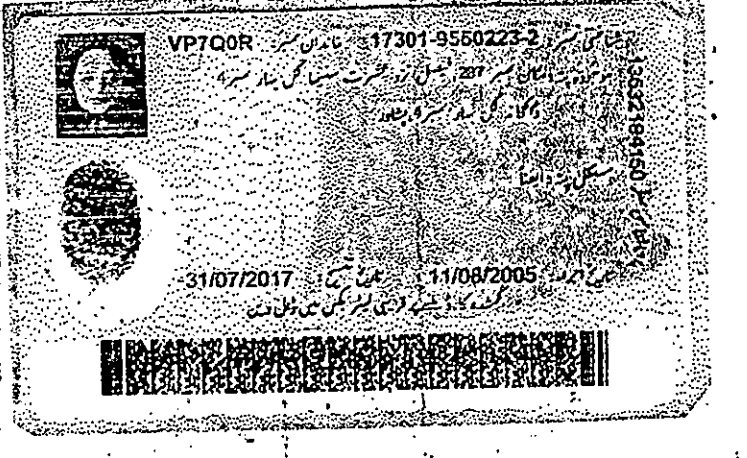
NOOR MOHAMMAD KHATTAK
ADVOCATE

کمیونٹی سروس کارڈ
17301-9550223-2
ATTESTAD (5)



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ATTESTAD



B-6



Establishment Section

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

NOTIFICATION :-

No.FS/E/100-96 (Vol-3)/14414-27 The following posting/transfers are hereby ordered with immediate effect in the public interest:-

S.No	Name	From	To	Remarks
1	Mst. Shaheena Rehman (BS-18)	Principal Govt Girls High School, Khar Bajaur Agency	Principal (BS-19) Govt Girls High School Subhan Khawar Mohmand Agency in her own pay & scale	Vide No.2
2	Mst. Samina Yousaf SET (BS-16) up-graded (BS-17)	Principal Govt Girls High School Subhan Khawar Mohmand Agency	Headmistress (BS-17) Govt Girls High School Dob Kor Mohmand Agency in her own pay & scale.	Against a vacant post

ADDITIONAL CHIEF SECRETARY (FATA)

Dated 12/9/2014

Copy to:-

1. Director Education FATA
2. Agency Education Officer Bajaur Agency
3. Agency Education Officer Mohmand Agency
4. Principal Govt Girls High School Khar Bajaur Agency
5. Principal Govt Girls High School Subhan Khawar Mohmand Agency
6. Headmistress Govt Girls High School Dob Kor Mohmand Agency
7. Agency Accounts Officer Bajaur Agency
8. Agency Accounts Officer Mohmand Agency
9. PS to Secretary AI&C FATA
10. Officer concerned

(JIBREEL RAZA)
Section Officer (Estab)

ATTESTED

DIRECTORATE OF EDUCATION, FATA SECRETARIAT, PESHAWAR

C-07

Notification

Consequent upon approval of competent Authority . The following posting / transfer are hereby ordered with immediate effect in the public interest .

S.#	Name /Designation / School	Posted at	Remarks
1	Mst : Shaheen Rehman Principal B-18 working at GGHS Subhan Khwar Mohmand Agency	GCET (F) Jamrud Khyber Agency	Against vacant Vice Principal B-18 post
2	Zahida Perveen Principal B-18 working at GGHS Challanai Mohmand Agency	GGHS Subhan Khwar Mohmand Agency	On her own Pay & Scale vice S. No.1

Note;

1. Charge report should be submitted to all concerned .
2. TA /DA etc is not allowed .

1794-1803

DIRECTOR EDUCATION (FATA)

Endst: No. _____ / A12 / Zahida Perveen Prl Dated Pesh: the 11/2 2015

Copy forwarded to the:-

1. Section Officer (Estab) Admin : Infrastructure & Coordination FATA Secretariat .
2. Agency Education Officer Mohmand Agency .
3. Agency Education Officer Khyber Agency at Jamrud .
4. Agency Account officer Mohmand Agency .
5. Agency Account Officer Khyber Agency .
6. Principal GGHS Ghalanai Mohmand Agency .
7. Principal GGHS Subhan Khwar Mohmand Agency .
8. Principal GCET (F) Jamrud Khyber Agency .
9. EMIS Local Directorate .
10. P/F

ATTESTED

W. Ahmad
Director Education FATA 11/2/15

(Anwar)

[Signature]

[Signature]

D-8

To

The Honourable
Additional Chief Secretary
FATA Secretariat Peshawar

Sub:- APPEAL AGAINST UN-JUSTICE/TRANSFER

R/Sir,

With due respect, it is submitted that I am serving as Principal (BPS-18) and now posted as D/C Principal (BPS-19) at Govt Girls High School Subhan Khawar Mohmand Agency.

Sir hardly on completion of 5 months tenure at Govt Girls High School Subhan Khawar Mohmand Agency, my transfer order has been issued to G.E.C.T. Jamrud, Khyber Agency which is quite un-justice with me, on the reason as stated below:-

- 1- I am widow and also no son or daughter or any other person to look after.
- 2- I am residing at near Colony above, at Warsak Road Peshawar
- 3- I have not completed my Tenure. It is worth to mention here that I will be retired within one and half(1/1/2) years.

I hope that your goodness will be enough to me, for cancellation of my transfer order.

Thanking you Sir,

Yours Obediently

(SHAHEEN REHMAN)

Govt Girls High School

Subhan Khawar

Diary No. 1529

Dated: 12/2/2015

ATTESTED



E 9



**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) {
- vi) While making postings/transfer from settled areas to FATA and vice-versa, specific approval of Governor, NWFP needs to be obtained
- ²While 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

ATTACHED

2

10

- (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)

- xiii) While considering posting/transfer proposals all the concerned authorities shall keep in mind the following:
- 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.
 - Tenure on present post shall also be taken into consideration and the posting/transfers shall be in the best public interest.

ATTESTED

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.

ATTESTED

VAKALATNAMA

IN THE COURT OF KPK Service Tribunal Peshawar

OF 2015

Shahen Rehman

(APPELLANT)
(PLAINTIFF)
(PETITIONER)

VERSUS

A.C.S FATA

(RESPONDENT)
(DEFENDANT)

I/We Shahen Rehman

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. ____/____/2015

Shahen Rehman
CLIENT

Noor Mohammad Khattak
ACCEPTED
NOOR MOHAMMAD KHATTAK
(ADVOCATE)

OFFICE:

Room No.1, Upper Floor,
Islamia Club Building, Khyber Bazar,
Peshawar City.

Phone: 091-2211391

Mobile No.0345-9383141

POWER OF ATTORNEY

In the Court of Khyber Pakhtun Khwa Sessions Tribunal

Reshm } For
Shahreen Rehman } Plaintiff
} Appellant
} Petitioner
} Complainant

VERSUS

A.C.S. FATA } Defendant
} Respondent no-4
} Accused
}

Appeal/Revision/Suit/Application/Petition/Case No. _____ of _____
Fixed for _____

I/We, the undersigned, do hereby nominate and appoint

IJAZ ANWAR ADVOCATE, SUPREME COURT OF PAKISTAN

and Sajid Amin Adh my true and lawful attorney, for me in my same and on my behalf to appear at Reshm to appear, plead, act and answer in the above Court or any Court to which the business is transferred in the above matter and is agreed to sign and file petitions. An appeal, statements, accounts, exhibits. Compromises or other documents whatsoever, in connection with the said matter or any matter arising there from and also to apply for and receive all documents or copies of documents, depositions etc, and to apply for and issue summons and other writs or subpoena and to apply for and get issued and arrest, attachment or other executions, warrants or order and to conduct any proceeding that may arise there out; and to apply for and receive payment of any or all sums or submit for the above matter to arbitration, and to employ any other Legal Practitioner authorizing him to exercise the power and authorizes hereby conferred on the Advocate wherever he may think fit to do so, any other lawyer may be appointed by my said counsel to conduct the case who shall have the same powers.

ds
11.06.11

AND to all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not, as may be proper and expedient.

AND I/we hereby agree to ratify and confirm all lawful acts done on my/our behalf under or by virtue of this power or of the usual practice in such matter.

PROVIDED always, that I/we undertake at time of calling of the case by the Court/my authorized agent shall inform the Advocate and make him appear in Court, if the case may be dismissed in default, if it be proceeded ex-parte the said counsel shall not be held responsible for the same. All costs awarded in favour shall be the right of the counsel or his nominee, and if awarded against shall be payable by me/us

IN WITNESS whereof I/we have hereto signed at *Sajid*
the _____ day to _____ the year _____
Executant/Executants _____
Accepted subject to the terms regarding fee _____

Accepted
Sajid Amin Adh
SAJID AMIN Adh
RESM

Ijaz Anwar
Advocate High Courts & Supreme Court of Pakistan

ADVOCATES, LEGAL ADVISORS, SERVICE & LABOUR LAW CONSULTANT
PK-3 Rd, Fourth Floor, Bilour Plaza, Saddar Road, Peshawar Cantt
Ph.091-5272154 Mobile-0333-9107225

1

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

In the matter of
Service Appeal No.1023 / 2014

Mst.Shaheen Rehman..... (Appellant)

VERSUS

Additional Chief Secretary FATA and Others.
.....(Respondent)

WRITTEN REPLY/ PARA WISE COMMENTS ON
BEHALF OF THE RESPONDENT NO. 4

Respectfully Submitted.

Para wise comments/reply on behalf of the Respondent
No.4 is as under:

11.06.14
PRELIMINARY OBJECTIONS:

- a. That the appellant has filed the instant appeal with mala fide intention and with ulterior motive.
- b. That under Section 10 of the Civil Servant Act, every civil servant is liable to be transfer any where through out the province and he cannot lawfully resist for choice posting.
- c. That the appellant has got no cause of action nor any locus standi to file the instant appeal.
- d. That the instant appeal is badly time barred.
- e. That the appellant has suppressed material facts from this Honourable Tribunal and has not come to the Tribunal with clean hands.
- f. That the appeal in hand is competent in its present form and under the present circumstances.
- g. That the appeal in hand is bad for non joinder /mis joinder of necessary parties.
- h. That the impugned transfer order has been acted upon the Replying respondent has already took over charge at new place of posting as such the instant appeal has become infructious and liable to be dismissed.

ON FACTS OF THE CASE

1. Contents need no reply. However the replying respondent is also the employee of respondent department and has having at her credit along and spotless service career. Moreover the replying respondent is also at the verge of her retirement and is going to be retired on attaining age of superannuation. **(Copy of CNIC is attached as R-I)**
2. Contents do not relate to the replying respondent hence need no comments.
3. Contents to the extent of transfer order dated 11.02.2015 is correct; rest of the Para is incorrect and misleading one. The order was issued on approval of the competent authority. Moreover the Replying Respondent after serving for more then 5 years at GGHSS Ghallanai Mohmand Agency has been transferred to GGHS Subhan Khwar Mohmand Agency. It is worth to mention in compliance of the said order the replying Respondent No.4 has already taken charge on 12.02.2015 and since then is performing her duty. **(Copies of charge report and attendance register is attached as R II & III)**
4. Contents incorrect. The replying respondent is also an old age lady and is at the verge of her retirement; however age has no factor for consideration of transfer and posting of civil servant. The replying respondent after serving for a long period out of her home station, Moreover the appeal attached with the instant appeal will also subject to prove. The same is also not addressed to proper authority.
5. Contents need no reply. However the grounds taken in appeal are misleading and incorrect, the same are replied as under:

ON GROUNDS

- A. Contents incorrect and misleading, the order date 11.02.2015 is well in accordance with law, facts and norms of Justice.
- B. Contents incorrect and misleading. The appellant has been treated in accordance with law and rules and there is no violation any of her right. Since she is civil servant, therefore she is liable to be transfer any where and she cannot lawfully resist her transfer.
- C. Contents incorrect and misleading. The replying respondent had served at a remote area for more than 5 , 6 year at Ghallanai Momand Agency, thereafter vide order dated

11.02.2015 she was transfer to Jumrued Agency vide order dated 11.02.2015. As such no violation of the policy is made.


- D. Contents incorrect and misleading the order dated 11.02.2015 has been issued in the best public interest.
- E. Contents incorrect and misleading, hence denied.
- F. Contents incorrect and misleading. The replying respondent is also at the verge of her retirement. Beside she also served at a remote area for considerable long time and has rightly been transferred vide the impugned order.
- G. Contents incorrect and misleading. The impugned order is made in the best interest of the public and no mala fide as alleged by the appellant can be pointed out.
- H. Contents incorrect and misleading, hence denied. Moreover as explained above.
- I. That the replying respondent also seeks permission to rely on additional grounds at the time of hearing of appeal.

It is, therefore, humbly prayed that the appeal of the appellant may graciously be dismissed with costs.


Respondent No. 4

Through

IJAZ ANWAR
Advocate Peshawar


SAJID AMIN
Advocate, Peshawar

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

In the matter of
 Service Appeal No. 1023 / 2014

Mst. Shaheen Rehman..... (Appellant)

VERSUS

Additional Chief Secretary FATA and Others.
(Respondent)

COMMENTS / REPLY TO THE APPLICATION FOR STAY

PRELIMINARY OBJECTIONS:-

- A. That the application is not maintainable.
- B. That the replying respondents has already took over charge in compliance of order dated 11-02-2015, therefore, the instant application as well as the main appeal infructious.
- C. That the application does not fulfill the requirements of order 39 Rule 1 and 2 hence temporary injunction / stay order cannot be granted.

ON FACTS:-

1. Contents need no reply. However the appeal is fixed today for reply.
2. Contents incorrect and misleading neither there is Prima facia case nor inconvenience or irreparable loss to the appellant moreover,
3. Contents Incorrect and misleading, the impugned order is well in accordance with law and rules and is made in the best public interest.
4. Contents need no reply, however, the accompanied reply on main appeal may read as integral part of the instant application.

It is, therefore, requested that the application may kindly be dismissed with costs.

[Signature]

Respondent No. 4

Through

IJAZ ANWAR

Advocate Peshawar

&

SAJID AMIN

Advocate, Peshawar

AFFIDAVIT

I, Miss. Zahida Parveen, Principle BPS-18 GGHS Subhan Khwar, Muhmand Agency, do hereby solemnly affirm and declare on oath that the contents of the above Reply to the main appeal as well as reply to the application are true and correct to best of my knowledge and believe and that nothing has been kept back or concealed from this Honourable Tribunal.

[Signature]

Deponent

ATTESTED



Annex- R-I

(8)

حکومت پاکستان
قومی شناختی کارڈ
17101-0301298-0



محمد علی شیر

دستخط مال کارڈ

نام: ذرا بده پیدلین
جنس: عورت
شعبہ کا نام: محمد علی شیر
شناختی صحت: ہر سے پر کل

تاریخ پیدائش: 01/01/1957

محمد علی ارشد حکیم

دستخط ایس ایس پی



شناختی نمبر: 17101-0301298-0 قائدان نمبر: UV507F

ادارہ: پتہ: پیر قلعہ، نیویاؤ، ڈاکخانہ شہ قلعہ، تحصیل شہ قلعہ، ضلع چارسدہ

13883807438
پتہ شناختی نمبر

پتہ: شیرانوکلی، ڈاکخانہ طریفت کورونہ، تحصیل سیکٹر 1، ضلع مہمند ایجنسی

تاریخ اجراء: 31/08/2009 تاریخ ترمیم: 31/07/2017
گمشدہ کارڈ لینے پر قریبی ایئر بکس میں ڈال دیں



No 16 Arrival Report
13/2/2015

I Mrs Zahida Farheen B. 18
report my arrival today, for
13.2.2015 for
taking over charge as Principal
at GHS Subhan Chowk Mahmad
Agency transferred vide
D.O (FATA) Order no 1794/1803
dated Pesh. 11/12/2015.

Mrs Zahida Farheen
Principal GHS Subhan Chowk
13.2.2015

16/2/15

ذات
طالع

کون کا

17/06

7-A

Ames R-II, ~~12/2~~

CERTIFICATE OF TRANSFER OF CHARGE

12-2
2015

Certified that we have on the fore/after noon of this day respectively made over and receive charge of this office of the

.....
..... Principal G.G.H.S. Subhan Khawar
..... Mohmand Agency

2:-Particulars of cash and important secret and confidential documents handed over are noted here.

Signature of relieved
Govt: Servant.....

Designation... Vacant

Station... G.G.H.S. Subhan Khawar

Signature of relieving
Govt: Servant.....

ZAHADA Parveen

Dated. 12/2/2015/2014. (FN/AN)

Endst: No. _____ / Dated. _____ / _____ / 2014.

Copy forwarded to the:-

- 1:- Director of Education FATA KPK Peshawar.
- 2:- Agency Education Officer Mohmand at Ghallanai.
- 3:- Agency Accounts Officer Mohmand at Ghallanai.
- 4:- Officers concerned.

Principal
GGHS Subhan Khawar
Mohmand Agency.

8

8

Anna - R-III

June 2015 بابت ماہ June سان 2015 4-4-H-S Subhan Chohan

رحمہ جعفری مدظلہ العالی

Samina - Yousaf Zahida - Parnee Shaheen - Rehman
S.S.T H. Principle H. Principle

قومی شناختی کارڈ نمبر:

03361519188

فون نمبر:

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(Your suggestions will be welcome)

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رجسٹر حاضری مدرسین

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بیت ماہ البریل داماد

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اتفاق ٹریڈرز کبیر سنٹر، اردو بازار، لاہور۔

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اتفاق ٹریڈرز

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J.C. A. Qayyum						F.T						T.T						
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دستخط ہیڈ ماسٹر
23-3-2015

اتفاق ٹریڈرز کبیر سٹریٹ، اردو بازار، لاہور۔

رجسٹر حاضری مدرسین

JAN	FEB	MAR	APR	MAY	JUN
JUL	AUG	SEP	OCT	NOV	DEC

2015 Feb

Zahida Parveen, Muhammad Sajid, Kalsoom Ajmal, Talida
 V. Principal J.C. F.T. T.T.

تاریخ	آدم	دستخط	رواگی	دستخط	آدم	دستخط	رواگی	دستخط	آدم	دستخط	رواگی	دستخط	آدم	دستخط	رواگی	دستخط	آدم	دستخط	رواگی	دستخط	آدم	دستخط	رواگی	دستخط
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کامیاب
 دستخط میزبان

انفاق ٹریڈرز گنبر سٹیٹ، اردو بازار، لاہور

BEFORE THE KHYBER PAKHTUNKHAWA SERVICE TRIBUNAL PESHAWAR

Appeal No. 432/2015

Mst. Shaheen Rehman Principal (BPS-18) GGHS Subhan Khuwar Mohmand Agency
under transfer to GCET (Female) Khyber Agency.....Appellant

.....VERSUS.....

1. The Additional Chief Secretary FATA, FATA Secretariat Warsak Road Khyber Pakhtunkhwa Peshawar.
2. The Secretary Social Sector FATA, FATA Secretariat Warsak Road Khyber Pakhtunkhwa Peshawar.
3. The Director FATA (E&SE) Department, FATA Secretariat Warsak Road Khyber Pakhtunkhwa Peshawar.
4. Mst: Zahida Parveen, Principal (BPS-18), GGHS Ghallanai Mohmand Agency, Under transfer to GGHS Subhan Khwar Mohmand Agency.....Respondents

HISTORY OF THE CASE.

The appellant Mst. Shaheen Rehman served as Principal GHS Subhan Khwar Mohmand Agency for one year with effect from 12-9-2014 to 11-2-2015. The appellant was later on transferred to GCET (F) Jamrud Khyber Agency in the interest of Public Service. Now she lodged an appeal in Khyber Pakhtunkhwa Service Tribunal vide appeal No. 432/2015 for cancellation of her transfer.

**PARAWISE COMMENTS ON BEHALF OF RESPONDENT NO. 1 AND 2 IN
APPEAL NO. 432/2015**

PRELIMINARY OBJECTIONS.

1. That the appellant has got no cause of action/locus standi to file the instant appeal.
2. That the appellant has not come to this Honorable Tribunal with clean hands.
3. That the appellant has concealed materials facts from this Honorable Tribunal.
4. That the appeal is not maintainable in its present form.
5. That the appeal is bad due to non-joinder and mis-joinder of necessary parties.
6. That the appellant is estopped by his own conduct to bring the present appeal.

Respectfully Sheweth.

On Facts:

1. No Comments pertains to record.
2. No Comments pertains to record.
3. Incorrect. The appellant is a permanent resident of Peshawar Gul Bahar No.4 Ishrat Cinema House No. 287 as evident from his NIC attached with the appeal. Therefore the appellant has been transferred to Govt College for Elementary Training Jamrud Khyber Agency being the nearest station to Peshawar. Therefore the appellant has been transferred to Jamrud in the interest of Public as well as in the interest of the appellant.
4. Incorrect. No Rept/appeal is available on the offices of the respondents.

Grounds.

- A. Incorrect. According to Section 10 of Khyber Pakhtunkhwa Civil Servant Act 1973 "Every Civil Servant shall be liable to serve anywhere inside or outside the province". Therefore the appellant has no right to perform his duty according to his wishes.
- B. Incorrect. The appellant transfer order has been issued by the Competent Authority in accordance with Law and Rules. No action has been taken which is against the norms of justice.
- C. No comments. As explained in Para-B above.

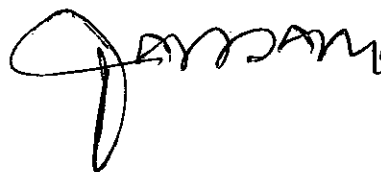
- D. No comments. As explained in Para-A above.
- E. Incorrect. The transfer order of the appellant has been issued in the interest of Public as well as in the interest of the appellant.
- F. No comments. As explained in Para-I.
- G. Incorrect. There is no provision in the rules which Civil Servant is to be transferred at his choice/desired of work Place.
- H. Respondent are also seeks permission to advance other grounds at the time of arguments.

In the light of above facts it is most humbly prayed that the appeal may be dismissed in favor of the respondents with cost throughout.



Respondent No1.

Additional Chief Secretary FATA



Respondent No.2

**Secretary Social Sectors
Department FATA**

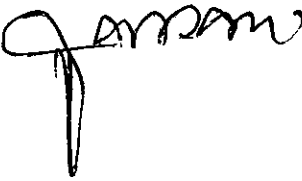


Respondent No 3

**Director ~~Education FATA~~
FATA Secretariat**

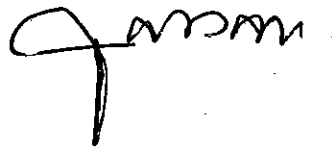
AFFIDAVIT

We, the above respondents do hereby declare and affirm that the above comments are true and correct to the best of our knowledge and belief that nothing has been concealed from this Hon'ble Tribunal.

For 

Respondent No1.

Additional Chief Secretary FATA



Respondent No.2

**Secretary Social Sectors
Department FATA**

Respondent No 3


Director Education FATA

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

APPEAL NO. 432/2015

Shaheen Rehman

VS

A.C.S. FATA

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

R/ SHEWETH:

PRELIMINARY OBJECTIONS:

(1 TO 8):

All the preliminary objections raised by the respondents are incorrect and 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 appeal.

ON FACTS:

- 1- Incorrect and not replied accordingly. That clause –xi of the transfer/ posting policy is favoring only those aggrieved civil servants who are due to retire within one year but inspite of that they have been transferred from one place of posting to another. That in this case the appellant has been transferred from one place of posting to another not the private respondent.
- 2- Admitted correct, hence need no comments.
- 3- Incorrect and not replied accordingly. That the appellant while serving as Principal (BPS-18) at GGHS Subhan Khwar Mohmand Agency was pre-maturely transferred by respondent No.3 (who not competent to issue such like orders) vide order dated 11-02-2015 to GCET (F) Jamrud Khyber Agency.
- 4- Incorrect and not replied accordingly. That the appellant is widow having 59 years of age and having no male or female child or any other person to look after her. That feeling aggrieved the appellant filed Departmental appeal before respondent No.1 on the belligerent violation committed by respondent No.3 by issuing the impugned transfer order vide dated 11-02-2015 but no heed was paid by the Respondent Department to the said Departmental appeal of appellant.

5- Incorrect and not replied accordingly hence denied.

GROUND:
(A TO I):

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 hence denied. That the action of the respondents is against the law, facts and norms of natural justice. That the impugned transfer order dated 11-02-2015 is against the clause I, IV and XI of the transfer/posting policy of the Government Khyber Pakhtunkhwa. That the impugned transfer order dated 11-02-2015 is pre-mature and has not been issued in the public interest nor in exigencies of service, therefore not tenable and liable to be set aside. That the education Department acted in an uneducated manner by ignoring the fact that the appellant is going to be retire on superannuation basis within a period of one year.

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

APPELLANT



SHAHEEN REHMAN

THROUGH:



NOOR MUHAMMAD KHATTAK
ADVOCATE

KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

No. 389 /ST

Dated 8 / 3 / 2016

To

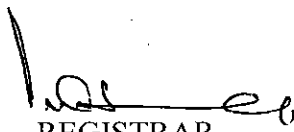
The Director Education FATA,
FATA Secretariat Warsak Road Peshawar.

Peshawar.

Subject: - Judgement.

I am directed to forward herewith certified copy of Judgement dated 2.3.2016 passed by this Tribunal on subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR.