

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

SERVICE APPEAL NO. 1587/2019

Date of institution ... 11.11.2019
Date of judgment ... 08.10.2021

Dr. Taj Wali Shah PMO (BS-19), Civil Hospital Kabangi Swabi.
... (Appellant)

VERSUS

The Government of Khyber Pakhtunkhwa through Chief Secretary,
Khyber Pakhtunkhwa at Civil Secretariat Peshawar and three others.

... (Respondents)

Present:

Syed Noman Ali Bukhari,
Advocate

... For appellant.

Mr. Usman Ghani,
District Attorney

... For respondents.

Mr. Ahmad Nasir Kundi,
Advocate

... For respondent No.4

MR. AHMAD SULTAN TAREEN,
MIAN MUHAMMAD


... CHAIRMAN
... MEMBER (EXECUTIVE)

JUDGEMENT

MIAN MUHAMMAD, MEMBER (E):- The appellant is aggrieved of the transfer order dated 18.06.2019 whereby his earlier transfer order dated 31.05.2019 was cancelled just after 18 days prematurely and no decision arrived on his departmental appeal within the statutory period.

02. Brief facts leading to the institution of instant service appeal are that the appellant joined the respondent-department

as Medical Officer (BS-17) and on his promotion as Principal Medical Officer (BS-19) he was transferred from Civil Hospital Kabangi Swabi to Category-C Hospital Topi Swabi (through general posting/transfer order of 216 PMO/PWMO) vide Notification dated 31.05.2019. The said Notification was however, partially modified and the appellant was again transferred to Civil Hospital Kabangi Swabi and private respondent No.4 now posted in Category-C Hospital Topi, Swabi in place of the appellant vide impugned Notification dated 18.06.2019. The appellant preferred departmental appeal to respondent No.3 on 09.07.2019 but it was not responded within the stipulated statutory period and whereafter the service appeal was filed in the Service Tribunal on 11.11.2019.

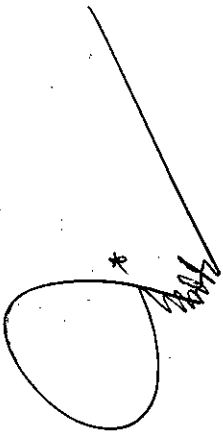


03. Notices were issued to the official respondents as well as private respondent No.4 in response to which they submitted their written reply/parawise comments. We have heard pro and contra arguments of the learned District Attorney, learned counsel for private respondent No.4, and gone through the available record with their assistance.

04. Learned counsel for the appellant contended that the appellant was performing duties at Civil Hospital Kabangi Swabi since 10.03.2016. He had completed his normal tenure at that station when transferred to category-C Hospital Topi Swabi against vacant post of PMO(BS-19) vide Notification dated 31.05.2019, in compliance of which the appellant relinquished

charge at Civil Hospital Kabangi Swabi on 11.06.2019 and took over charge at category-C Hospital Topi Swabi on 12.06.2019. However, the transfer order dated 31.05.2019 was cancelled after 06 days of the taking over charge by appellant and now private respondent No.4 was posted as PWMO (BS-19) at category-C Hospital Topi Swabi and the appellant was transferred back as PMO (BS-19) to Civil Hospital Kabangi Swabi vide impugned Notification dated 18.06.2019 despite the fact that the appellant had served there for over three years since 10.03.2016 whereas private respondent No.4 had served at the same station (Category-C Hospital Top Swabi) for almost of all her service. It was vehemently contended that the impugned order dated 18.06.2019 has been issued in violation of posting/transfer policy of the provincial government, in utter violation of circular based on Anita Turab case and is politically motivated because a copy of the impugned Notification dated 18.06.2019 was endorsed to PS to Minister Health. The impugned Notification dated 18.06.2019 has been issued Prematurely and against law, facts and norms of justice is not maintainable in the eyes of law, may be set aside. In support of his arguments, he relied on the Service Tribunal judgement dated 04.04.2018 delivered in Service Appeal No. 66/2018 titled Muhammad Miskeen, Head Clerk (BS-16) Abbottabad versus Irrigation Department.

05. Learned counsel for private respondent No.4 contended that on promotion as PWMO (BS-19), services of private respondent No.4 were placed at the disposal of DHO Swabi. A civil servant can be transferred anywhere because posting/transfer is part of the terms and conditions of service. He relied on 2021 SCMR 1064. The impugned Notification dated 18.06.2019 was issued in public interest because the services of PWMO were required for BEMONE centre at category-C Hospital Topi Swabi as per proposal of DHO Swabi dated 17.06.2019, written to official respondent No.3. The impugned Notification dated 18.06.2019 cannot be called politically motivated simply on the ground that its copy has been endorsed to PS to Minister Health. Even copy of the earlier Notification dated 31.05.2019 was endorsed to PS to Minister Health as Minister is Head of the Department subsequent to 18th Constitutional amendment.



06. Learned District Attorney for official respondents conversely argued that a Civil Servant is bound to serve anywhere in the province under Section-10 of the Khyber Pakhtunkhwa Civil Servants Act, 1973. It is not the prerogative of a civil servant to be posted against his choice post and place. Rather, it is the mandate of authority to post him/her considering public interest and exigency of service as paramount objective of Human Resource Management. The appellant has been treated under the law and transfer order cancelled in public interest as per provisions of posting/transfer policy. The appeal being devoid of merit may be dismissed.

07. It is evident from record that the appellant had been serving at Civil Hospital Kabangi since 10.03.2016 and as such he rendered services at that station for over three years i.e over and above the

normal tenure of two years, when he was transferred to category-C Hospital Topi Swabi vide Notification of general posting/transfer of 216 PMO/PWMO (BS-19) dated 31.05.2019. The appellant relinquished the charge at Civil Hospital Kabangi on 11.06.2019 and assumed the charge against the vacant post of PMO at Category-C Hospital Topi Swabi on 12.06.2019; copies of the charge relinquish/assumption report were duly endorsed to official respondent No.3 besides DG Health Services and District Accounts officer Swabi. The issuance of impugned notification dated 18.06.2019 (partially modifying the Notification of general posting/transfer of 216 PMO/PWMO dated 31.05.2019 to the extent of only two) was issued whereby his earlier posting order to category-C Hospital Topi, Swabi was cancelled and now he was retained at Civil Hospital Kabangi Swabi where he had already served for three (03) years and three (03) months and private respondent No.4 whose services were at the disposal of DHO Swabi, was posted at Category-C Hospital Topi Swabi but without assigning any reason except that "the competent authority is pleased" and "in public interest".

08. No doubt, a civil servant is bound to serve anywhere in the province under Section-10 of the Khyber Pakhtunkhwa Civil Servants 1973 yet there is specific provision regarding tenure of two years to be served against a post under serial (iv) of the Provincial posting/transfer Policy 2003 (amended and revised from time to time till 2010). Tenure of post of a civil servant is also protected under 2013 PLC-Supreme Court-195. Moreover, all posting/transfer shall be issued strictly in public interest and the authority in no way shall

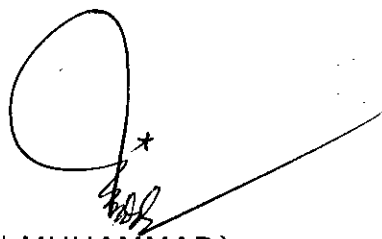
abuse or misuse it as a tool to victimize the government servants. This has been specifically mentioned at serial (i) of the said policy of provincial government. Needless to mention that government policy has the same sanctity of law and rules and the government is obligated to keep not only its sanctity intact but to follow and implement it in letter and spirit whole heartedly without opting and resorting to pick and choose.

09. As a sequel to the above, we are of the considered opinion that the impugned Notification dated 18.06.2019 has been issued in utter violation and total disregard to the provisions of posting/transfer policy is therefore set aside. Parties are left to bear their own costs.

File be consigned to the record room

ANNOUNCED
08.10.2021


(AHMAD SULTAN TAREEN)
CHAIRMAN


(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)

ORDER

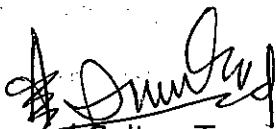
08.10.2021

Syed Noman Ali Bukhari, Advocate, for the appellant present. Mr. Usman Ghani, District Attorney for official respondents No. 1 to 3 and Mr. Ahmad Nasir Kundi, Advocate, for private respondent No.4 present. Arguments heard and record perused.

Vide our detailed judgement of today placed on file (containing 06 page), we are of the considered opinion that the impugned Notification dated 18.06.2019 has been issued in utter violation and total disregard to the provisions of posting/transfer policy is therefore set aside. Parties are left to bear their own cost. File be consigned to the record room.

Announced:

08.10.2021


(Ahmad Sultan Tareen)
Chairman


(Mian Muhammad)
Member(E)

09.06.2021

None in attendance on behalf of appellant.

Javid Ullah learned Assistant Advocate General on behalf of respondents No.1 to 3 and Mr. Amaad Nasir Kundi Advocate on behalf of respondent No.4 are present.

Matter impugned in the appeal is posting transfer necessitating urgent disposal of the appeal, however, this appeal since its institution on 26.11.2019 is pending because of adjournments for one reason or the other. The appeal was lastly adjourned on request made on behalf of appellant. Notice of attendance to the appellant for arguments on the next date be given to the appellant as well as to his counsel specifying therein that this is the last chance, failing which, the appeal shall be disposed under due course of law. File to come up for arguments on 05.10.2021 before D.B.



(Rozina Rehman)
Member (J)



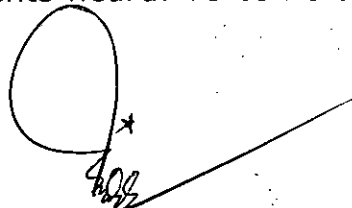
Chairman



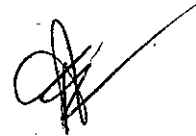
05.10.2021

Syed Noman Ali Bukhari, Advocate, for the appellant present. Mr. Usman Ghani, District Attorney for official respondents No. 1 to 3 and Mr. Ahmad Nasir Kundi, Advocate, for private respondent No. 4 present.

Arguments heard. To come up for order before this D.B on 08.10.2021.



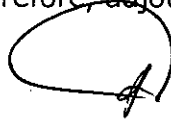
(MIAN MUHAMMAD)
MEMBER (EXECUTIVE)



CHAIRMAN

09.12.2020 Mr. Nasirud Din, Advocate on behalf of counsel for the appellant and Addl. AG for the respondents present.

Once again adjournment is sought on account of engagement of learned senior counsel before the Honourable Peshawar High Court. The hearing is, therefore, adjourned to 03.03.2021 before the D.B.



(Rozina Rehman)
Member(J)



Chairman

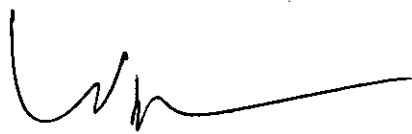
03.03.2021 Due to COVID-19, the case is adjourned for the same on 31.05.2021 before D.B



READER

31.05.2021 Mr. Asad Mehmood, junior of learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Additional Advocate General for official respondents No. 1 to 3 present.

Junior of learned counsel for the appellant sought adjournment on the ground that learned counsel for the appellant is busy in the august Peshawar High Court. Adjourned. To come up for arguments before the D.B on 06.09.2021.



(ATIQU-UR-REHMAN WAZIR)
MEMBER (EXECUTIVE)



(SALAH-UD-DIN)
MEMBER (JUDICIAL)

22.07.2020

Mr. Muhammad Asif Yousafzai, Advocate for appellant is present. Mr. Kabirullah Khattak, Additional AG alongwith Mr. Hazrat Shah, Superintendent on behalf of official respondents No. 1 to 3 and Mr. Mukthar Ahmad Maneri, advocate on behalf of private respondent No. 4 are also present.

Representative of official respondents No. 1 to 3 as well as learned counsel for private respondent No. 4 submitted written replies which are placed on file. File to come up for arguments on 12.08.2020 before D.B. The appellant may submit rejoinder within fortnight, if so advised.

(MUHAMMAD JAMAL KHAN)
MEMBER

12.08.2020

Due to summer vacations case to come up for the same on 15.10.2020 before D.B.

Reader

15.10.2020

Mr. Taimur Ali Khan, Advocate for appellant is present. Mr. Muhammad Jan, Deputy District Attorney alongwith representative of the department Mr. Hazrat Shah, Section Officer are also present.

Learned counsel submitted that his senior counsel is busy before the Hon'ble Peshawar High Court, Peshawar and cannot attend the Tribunal today and requested for adjournment. Adjourned to 09.12.2020 on which to come up for arguments before D.B.

(Atiq-ur-Rehman Wazir)
Member (Executive)

(Muhammad Jamal Khan)
Member (Judicial)

24.03.2020

Due to public holidays on account of Covid-19, the case is adjourned. To come up for the same on 16.06.2020 before S.B.


Reader

16.06.2020

Junior counsel for the appellant and Mr. Kabirullah Khattak, Additional AG on behalf of official respondents No. 1 to 3 present. Mr. Mukhtar Ahmad Maneri, Advocate on behalf of private respondent No. 4 present and seeks time to furnish written reply/comments. Neither written reply on behalf of official respondents 1 to 3 submitted nor their representatives are present, therefore, notices be issued to them with the direction to direct the representatives to attend the court and submit written reply on the next date positively. To come up for written reply/comments on 03.07.2020 before S.B.


(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

03.07.2020

Counsel for the appellant and Addl: AG alongwith Hazrat Shah, Supdt for respondents present. Written reply on behalf of respondents not submitted. Requested for further time.

Adjourned to 22.07.2020 for written reply/comments before S.B.


MEMBER

24.02.2019

Learned counsel for the appellant present. Preliminary arguments heard.

The appellant (Principal Medical Officer), has filed the present service appeal being aggrieved against the posting transfer of private respondent No.4 to Category-C Hospital Topi Swabi in place of the appellant while the appellant was retained in Civil Hospital Kabgani Swabi vide Notification dated 18.06.2019.

Submissions made by the learned counsel for the appellant, need consideration. The present service appeal is admitted for regular hearing subject to all just legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter notices be issued to the respondents for written reply/comments. To come up for written reply/comments on 09.03.2020 before S.B.


Appellant Deposited
Security & Process Fee

24/2/20


Member

09.03.2020

Appellant alongwith his counsel and Mr. Kabirullah Khattak, Additional AG for the respondents present. Neither written reply on behalf of respondents submitted nor representative of the department is present, therefore, notices be issued to the respondents with the direction the representative to attend the court and submit written reply on the next date positively. Adjourned to 24.03.2020 for written reply/comments before S.B.

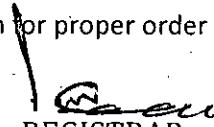




(MUHAMMAD AMIN KHAN KUNDI)
MEMBER

Form- A

FORM OF ORDER SHEET

Court of _____

Case No.- 1587 /2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	26/11/2019	<p>The appeal of Dr. Taj Wali Shah resubmitted today by Mr. Muhammad Asif Yousafzai Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p> REGISTRAR 26/11/19</p>
2-	28/11/19.	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>05/12/19</u></p> <p> CHAIRMAN</p>
	05.12.2019	<p>Nemo for appellant.</p> <p>Notices be issue to appellant/counsel for preliminary hearing before S.B on 13.01.2019.</p> <p> Chairman</p>
	13.01.2020	<p>Junior to counsel for the appellant present.</p> <p>Requests for adjournment due to general strike of the Bar. Adjourned to 24.02.2020 before S.B.</p> <p> Chairman</p>

P-26

The appeal of Dr. Taj Wali Shah PMO Civil Hospital Kabangi Swabi received today i.e. on 11.11.2019 is incomplete on the following score which is returned to the counsel for the appellatant for completion and resubmission within 15 days.

- 1- Affidavit may be got attested by the Oath Commissioner.
- 2- Annexures of the appeal may be flagged.
- 3- Annexures of the appeal may be attested.
- 4- Annexure-G of the appeal is illegible which may be replaced by legible/better one.
- 5- Six more copies/sets of the appeal along with annexures i.e. complete in all respect may also be submitted with the appeal.


No. 1981 /S.T,

Dt. 13-11- /2019.


REGISTRAR
SERVICE TRIBUNAL
KHYBER PAKHTUNKHWA
PESHAWAR.

M. Asif Yousafzai Adv. Pesh.

① All the objections were removed & file re-submitted



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

Appeal No. 1587 /2019

Dr. Taj Wali Shah

V/S

Health Department

INDEX

S.No	Documents	Annexure	Page No.
1.	Memo of Appeal	-----	01-04
2.	Stay Application along-with Affidavit		05-06
3.	Copy of transfer order	- A -	07-09
4.	Copy of transfer order dated 31.05.2019	-B-	10-12
5.	Copy of service certificate	- C -	13
6.	Copy charge report	- D -	14-15
7.	Copy of cancelation order dated 18.06.2019	- E -	16
8.	Copy of Certificate of R.3	F	17
9.	Copy of Departmental Appeal	G	18
10.	Copy of posting transfer policy	H	19-23
11.	Copy of circular	-H-	24
12.	Copy of judgment	-I-	25-29
13.	Vakala Nama	-----	30

APPELLANT

THROUGH:


(M. ASIF YOUSAFZAI)

ADVOCATE SUPREME COURT


&
(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT

0306-5109438

Date:11/11/2019

1

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

APPEAL NO. 1587 /2019

Khyber Pakhtunkhwa
Service Tribunal

Dr. Taj Wali Shah PMO (BS-19)
Civil Hospital Kabangi Sawabi.

Diary No. 1608

Dated 11/11/2019

(APPELLANT)

VERSUS

1. The Govt: Of KP through Chief Secretary Civil Secretariat Peshawar.
2. The Chief Secretary, Khyber Pakhtunkhwa Civil Secretariat Peshawar.
3. The Secretary to Govt: of KP Health Deptt: civil secretariat Peshawar.
4. Dr. Nasreen PWMO BS-19, Category-C Hospital, Topi Swabi.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 18.06.2019 WHEREBY THE APPELLANT TRANSFER ORDER 31.05.2019 HAS BEEN CANCELLED, JUST AFTER ABOUT 18 DAYS PREMATURELY AND UTTER VIOLATION OF POSTING TRANSFER POLICY, AND AGAINST NOT DECIDING DEPARTMENTAL APPEAL OF THE APPELLANT WITHIN STATUTORY PERIOD OF 90 DAYS.

Filed to-day
Registrar
11/11/19

PRAYER:

THAT ON ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 18.06.2019, MAY PLEASE BE SET ASIDE BEING, PASSED PREMATURELY AND IN VIOLATION OF POSTING/TRANSFER POLICY. THE RESPONDENT DEPTT: MAY FURTHER PLEASE BE DIRECTED NOT TO TRANSFER THE APPELLANT PREMATURELY AND IN VIOLATION OF POSTING/TRANSFER POLICY. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

Re-submitted to -day
and filed.
Registrar
26/11/19

RESPECTFULLY SHEWETH:

FACTS:

1. That the appellant now a days working as PMO BS-19 at CH Kabangi Swabi. The appellant performing his duties with ALL Zeal and Zest at different station as per orders of authority.
2. That the appellant was performing his duties at CH Kabangi (Gadoon) Swabi (Hard Area) from 10.03.2016 till transfer order dated 31.05.2019 whereby, the appellant was transfer to Category-C Hospital Topi Swabi against the vacant post of PMO BS-19. **(Copy of transfer order 10.03.2016, transfer order dated 31.05.2019 and service certificate is attached as annexure- A, B & C).**
3. That the appellant submitted his arrival/charge report on 12.06.2019 in the compliance of order dated 31.05.2019 and quite astonishingly just after 18 days the transferred order dated 31.05.2019 has been cancelled vide order dated 18.06.2019 and the appellant was transferred back to CH Kabangi Swabi and respondent No.4 is transferred on the place of appellant in violation of posting transfer Policy and principle of Locus Poenetentiae. **(Copy of Charge report, cancelation order and service certificate is attached as annexure-D, E & F).**
4. That the appellant feeling aggrieved from the impugned order dated 18.06.2019 filed departmental appeal on 11.07.2019 which was not responded within statutory period of 90 days.. **(Copy of departmental appeal is attached as Annexure- G).**
5. That the appellant has no other remedy but to come this august Tribunal on the basis of following grounds amongst others.

GROUND:

- A) That the impugned order dated 18.06.2019 and not taking action on the departmental appeal of the appellant is against the law, facts, norms of justice, premature, politically motivated, violation of Govt: circulars, therefore not tenable and liable to be set aside.
- B) That the appellant's tenure at category-C hospital Topi Swabi, was only 18 days, Therefore, the order dated 18-06-2019 is premature and against the tranfer policy.

- C) That the appellant was transferred on 31.05.2019 to to Category-C Hospital Topi Swabi against the vacant post of PMO BS-19but the transferred order was withdrawn on 18.06.2019 just after one month against the law, rules and on the basis of political influence, which is evident from the order.

- D) That the tenure of the appellant at CH Kabangi Swabi and respondent no.4 at CH Hospital Topi Swabi has been already completed according to transferred posting Policy, so the order dated 31.05.2019 is according to law and rules and cancelation of order 18.06.2019 without showing any cogent reasons and without giving personal hearing is against the law rules, posting transfer policy and principal of locus poenetentiae. **Copy of posting transfer policy is attached as Annexure-H.**

- E) That according to posting transfer policy, normal tenure for posting is 2 years, but the appellant transferred order was cancelled just after 18 days, which is total violation of Govt: posting transfer policy. Thus the impugned order is liable to be set-aside on this score alone.

- F) That the transfer of the appellant is also violation of circular based on the Anita Turab case dated 27.2.2013 in which it was clearly mentioned that when the ordinary tenure for a posting has been specified in the law or rules made thereunder, such tenure must be respected and cannot be varied, except for compelling reasons, which should be recorded in writing and are judicially reviewable, but in the case of the appellant the tenure was not respected and was posted/ transferred just after 18 days without completing his normal tenure at topi Swabi and without giving compelling reason for such transfer of the appellant by the authority.

- G) That no reasons have been mentioned in the order dated 18.06.2019 which is the violation of Clause-24-A of the General Clauses Act 1897.


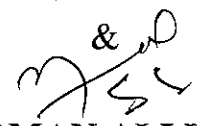
- H) That the cancelation order dated 18.06.2019 without any reason is also in violation of Government Posting/Transfer Policy. Thus, the withdrawn order is not sustainable in the eye of law.

- I) That this Hon;ble Tribunal Already Accepted the Same Nature Appeal Miskeen Vs irrigation deptt. So the appellant may also be treated at par and the same relief may also be given to the appellant. **Copy of judgment is attached as annexure-I.**
- J) / That once order passed and acted upon then that order could not be cancelled or withdrawn under the principles of Locus Poenetentiae.
- K) That the impugned order is not based on public interest nor any exigencies but rather to adjusted blue eyed person.
- L) That the appellant seeks permission to advance others grounds and proofs at the time of hearing.

It is, therefore, most humbly prayed that the appeal of the appellant maybe accepted as prayed for.


APPELLANT
 Dr. Taj Wali Shah

THROUGH:


M. ASIF YOUSAFZAI
 ADVOCATE SUPREME COURT
 &

(SYED NOMAN ALI BUKHARI)
 ADVOCATE HIGH COURT

Date: 11/11/2019

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

Appeal No. _____/2019

Dr. Taj Wali Shah

V/S

Health Department

.....

**APPLICATION FOR SUSPENDING
THE OPERATION OF ORDER DATED
18.06.2019 TILL THE DISPOSAL OF
MAIN APPEAL.**

RESPECTFULLY SHEWETH:

1. That the appellant has filed an Appeal along-with application in which no date has been fixed so far.
2. That the appellant has good prima facie case and all the ingredients of stay is in favour of appellant.
3. That the grounds of main appeal may also be considered as integral part of this application.
4. That the impugned order has passed on favoritism and nepotism and has been passed in-violation of Posting, Transfer Policy.
5. That the appellant has not completed his tenure and the order dated 18.06.2019 is without any reasons.

- (8)
6. That if the order dated 18.06.2019 is not suspended and charge will take from the appellant. It badly effect the right of appellant.

It is, therefore, most humbly prayed that the order dated 18.06.2019 may be suspended till the disposal of main appeal. Any other remedy, which this august tribunal deems fit that may also be awarded in favour of appellant.


APPELLANT

Dr. Taj Wali Shah

THROUGH:


(M. ASIF YOUSAFZAI)

ADVOCATE SUPREME COURT


(SYED NOMAN ALI BUKHARI)
ADVOCATE HIGH COURT

AFFIDAVIT:

It is affirmed and declared that the contents of this Application are true and correct to the best of my knowledge and belief.


DEPONENT



A (7)

GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT
Dated Peshawar the 04th March, 2016

NOTIFICATION

NO.SO(E)H-II/4-1/2016 The competent authority is pleased to order the following doctors with immediate effect in the public interest.

S.No	Name of doctor	From	To
1.	Dr. Qudratullah, Medical Officer BS-17	RHC Sabirabad Karak	EPI Coordinator Karak
2.	Dr. Muhammad Yousaf Medical Officer BS-17	EPI Coordinator Karak	RHC Sabirabad Karak
3.	Dr. Abdul Wadood Medical Officer BS-17	Attached to DHO office Dir Lower	EPI Coordinator Dir Lower
4.	Dr. Wazirzada Medical Officer BS-17	DHQ Hospital Dir Upper	EPI Coordinator Dir Upper
5.	Dr. Kifayatullah Medical Officer BS-17	CH Tajori Lakki Marwat	DHIS Coordinator Lakki Marwat relieving Dr. Hafizullah, EPI Coordinator of the additional charge
6.	Dr. Bashir Ahmad Medical Officer BS-17	BHU Kahi Hangu	EPI Coordinator Hangu
7.	Dr. Sohail Farooqi Medical Officer BS-17	CH Kapgani Swabi	EPI Coordinator Swabi
8.	Dr. Taj Wali Shah Medical Officer BS-17	CH Topi Swabi	CH Kapgani Swabi

SECRETARY HEALTH
Govt. of Khyber
Pakhtunkhwa

Continue Page-2

Signature

Designation



HEALTH DEPARTMENT

Dated Peshawar, the 26th September, 2017NOTIFICATIONSOH(E-V) 4-22/2017

The Government of Khyber Pakhtunkhwa on the recommendations of the Provincial Selection Board is pleased to promote the following doctors of General Cadre from BS-17 to BS-18 on regular basis with immediate effect

S. No.	NAME OF DOCTOR	S. NO.	NAME OF DOCTOR
1	Dr. Taseem Khuda	24	Dr. Ijaz Hussain Zaidi
2	Bihar Zaman	25	Dr. Muhammad Saleem
3	Dr. Khadija Jawad	26	Dr. Malik Muhammad Iqbal
4	Dr. Zubaida Khanum	27	Dr. Abdul Mujeeb
5	Dr. Ferzana Ayub	28	Dr. Abdul Hameed Khan
6	Dr. Zahra Rafiq	29	Dr. Zia ul Hussain
7	Dr. Shahnum Gul	30	Dr. Atab Ahmad
8	Dr. Najma Sultana	31	Dr. Muhammad Yousof
9	Dr. Azghar Khan	32	Dr. Asif Kamal
10	Dr. Abdur Rehman	33	Dr. Mukhtas Raza Khan
11	Dr. Sultan Bibi	34	Dr. Rashid Shah
12	Dr. Iqbal Jan	35	Dr. Abdur Raheem
13	Dr. Zubair Ali	36	Dr. Nasir Ullah
14	Dr. Gohar Ali	37	Dr. Fahim Shah Roghani
15	Dr. Ijaz Anwar	38	Dr. Fozle Razik Khan
16	Dr. Ijaz Mahmood Khan	39	Dr. Jahangir Khan Afridi
17	Dr. Muhammad Anwar	40	Dr. Saleem Javed
18	Dr. Rashid Hassan Khan	41	Dr. Muhammad Ilyas
19	Dr. Javed Iqbal	42	Dr. Fida Hussain
20	Dr. Zahid Abidooon	43	Dr. Muhammad Qamar
21	Dr. Saleem Abbas	44	Dr. Iftikhar Muhammad
22	Dr. Bushar Ahmad	45	Dr. Feroz Shah
23	Dr. Waqid Ali	46	Dr. Jahangir Khan

APPROVED

111	Dr. Zahir Shah	143	Dr. Fiaz Muhammad
112	Dr. Abdus Samad Khan	144	Dr. Muhammad Asiq
113	Dr. Hanif Khan	145	Dr. Muhammad Haroon
114	Dr. Shah Alam	146	Dr. Muhammad Bhatiq
115	Dr. Oazi Ijaz Ahmad	147	Dr. Afzar Ali
116	Dr. Alta Ullah	148	Dr. Tawaf Gul
117	Dr. Muhammad Manzoor	149	Dr. Muhtaar Ahmad Alvi
118	Dr. Jawad Majeed Swati	150	Dr. Ayub Khan
119	Dr. Wasim Umer Jadoon	151	Dr. Hammad
120	Dr. Sajida Yaqoob	152	Dr. Nasr ullah Khan
121	Dr. Farah Deeba	153	Dr. Muhammad Sohail Khattak
122	Dr. Nasreen Begum	154	Dr. Alangir Khan
123	Dr. Gul Naz Begum	155	Dr. Rizwan Ullah
124	Dr. Muhammad Ikram	156	Dr. Syed Riaz ud Din
125	Dr. Muhammad Imran	157	Dr. Farooq
126	Dr. Gul Nawaz Khan	158	Dr. Zaib Khan
127	Dr. Muhammad Amjad Khan	159	Dr. Firdous Jabeen
128	Dr. Muhammad Ismail Khan		
129	Dr. Hamid Iqbal		
130	Dr. Saad Khan		
131	Dr. Muhammad Riaz		
132	Dr. Shahab Khan		
133	Dr. Shabir Ahmad		
134	Dr. Muhammad Imran		
135	Dr. Inayat ur Rehman		
136	Dr. Muhammad Umer		
137	Dr. Zakir Hussain		
138	Dr. Wahid Zaman Khan		
139	Dr. Umar Hayat		
140	Dr. Muhammad Tehir Shah		
141	Dr. Taj Wali Shah		

ATTA



B 6

GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar, the 31st May, 2019

NOTIFICATION

NO.SOH(E-V)4-22/2019

Consequent upon their promotion to BS-19 in the General Cadre as notified on 08th May, 2019, the competent authority is pleased to order posting/transfer of the following Principal Medical Officers BS-19 with immediate effect in the public interest:-

S#	Name of Doctor	FROM	TO	Remarks
1.	Dr. Muhammad Younis Nadeem PMO BS-19	DHQ Hospital KDA Kohat	DHQ Hospital KDA Kohat	Against the vacant post of PMO BS-19
2.	Dr. Muhammad Saddiq PMO-BS19	TBC Center North Waziristan Merged District	Services placed at the disposal of DHO Lakki Marwat	Against the vacant post of PMO BS-19
3.	Dr. Sher Zaman PMO BS-19	Mardan Medical Complex Mardan	Services placed at the disposal of DHO Mardan	Against the vacant post of PMO BS-19
4.	Dr. Zubaida Khanum PMO BS-19	City Hospital Lakki Marwat	City Hospital Lakki Marwat	Against the vacant post of PMO BS-19
5.	Dr. Farzana Ayub PMO BS-19	TBC Center Abbottabad	RHC Kalapani Abbottabad	Against the vacant post of PMO BS-19
6.	Dr. Abdur Rehman PMO BS-19	RHC Naryab Hangu	Category-D Hospital Thal Hangu	Against the vacant post of PMO BS-19
7.	Dr. Iqbal Jan PWMO BS-19	Public Health School Abbottabad	Public Health School Abbottabad	Against the vacant post of PMO BS-19
8.	Dr. Sultan Bibi PMO BS-19	DHQ Hospital Abbottabad	DHQ Hospital Abbottabad	Against the vacant post of PMO BS-19
9.	Dr. Muhammad Younis PMO BS-19	Attached to DHQ Hospital Miranshah NW Merged District.	Services placed at the disposal of DHO Bannu	Against the vacant post of PMO BS-19
10.	Dr. Zulfiqar Ali PMO BS-19	Moulvi Ameer Shah Memorial Hospital Peshawar	Moulvi Ameer Shah Memorial Hospital Peshawar	Against the vacant post of PMO BS-19
11.	Dr. Rashid Hassan Khan PMO BS-19	THQ Hospital Kulachi DIKhan	Category-D Hospital Pahaipur DIKhan	Against the vacant post of PMO BS-19

Section Officer (E-V)
Health Department
Khyber Pakhtunkhwa

11

179	Dr. Fayyaz Ali BS-19	PMO	DHQ Hospital Mardan	DHQ Hospital Mardan	Against the vacant post of PMO BS-19
180	Dr. Khalid Mahmood BS-19	PMO	DHQ Hospital Bannu	Services placed at the disposal of DHO Bannu	Against the vacant post of PMO BS-19
181	Dr. Tahir Hussain BS-19	PMO	DHQ Hospital Kurram	DHQ Hospital Hangu	Against the vacant post of PMO BS-19
182	Dr. Saeedur Rehmani BS-19	PMO	Attached to DHO Buner	Services placed at the disposal of DHO Buner	Against the vacant post of PMO BS-19
183	Dr. Fazli Raziq PMO BS-19	PMO	THQ Hospital Tangi Charsadda	THQ Hospital Tangi Charsadda	Against the vacant post of PMO BS-19
184	Dr. Muhammad Parvez Khan Durrani PMO BS-19	PMO	DHQ Hospital Mardan	DHQ Hospital Mardan	Against the vacant post of PMO BS-19
185	Dr. Naheed Sultana PwMO BS-19	PwMO	Silwat Ghayur Memorial Hospital Peshawar	Silwat Ghayur Memorial Hospital Peshawar	Against the vacant post of PMO BS-19
186	Dr. Akhtar Nawaz BS-19	PMO	RHC Ambar Kunda Swabi	RHC Ambar Kunda Swabi	Against the vacant post of PMO BS-19
187	Dr. Rozat Shah PMO BS-19	PMO	Attached to DHO Peshawar	Services placed at the disposal of DHO Peshawar	Against the vacant post of PMO BS-19
188	Dr. Saira Gulzar BS-19	PwMO	Services Hospital Peshawar	Services Hospital Peshawar	Against the vacant post of PMO BS-19
189	Dr. Muhammad Humayum	PMO	DHQ Hospital Bajaur Merged District	Miagh Rasheed Hussain Hospital Pabbi Nowshera	Against the vacant post of PMO BS-19
190	Dr. Sahib Gul PMO BS-19	PMO	DHQ Hospital Dir (Upper)	DHQ Hospital Dir (Upper)	Against the vacant post of PMO BS-19
191	Dr. Jamal Hayat BS-19	PMO	DHQ Hospital Upper Dir	DHQ Hospital Upper Dir	Against the vacant post of PMO BS-19
192	Dr. Amir Sier BS-19	PMO	DHQ Hospital Charsadda	DHQ Hospital Charsadda	Against the vacant post of PMO BS-19
193	Dr. Taj Wali Shah BS-19	PMO	Civil Hospital Kabgani Swabi	Category-C Hospital Topi Swabi	Against the vacant post of PMO BS-19

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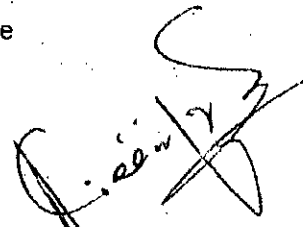
209	Dr. Badshah Khan PMO BS-19	City Hospital Lakki Marwat	City Hospital Lakki Marwat	Against the vacant post of PMO BS-19
210	Dr. Syed Umair Hussain PMO BS-19	DHQ Hospital Abbottabad	DHQ Hospital Abbottabad	Against the vacant post of PMO BS-19
211	Dr. Nusrat Ara PWMO BS-19	DHQ Hospital Abbottabad	DHQ Hospital Abbottabad	Against the vacant post of PMO BS-19
212	Dr. Shazia Gul PWMO BS-19	THQ Kalay Lower Orakzai Merged District	DHQ Hospital KDA Kohat	Against the vacant post of PMO BS-19
213	Dr. Seema Sharif PWMO BS-19	Bacha Khan Medical College Mardan	Services placed at the disposal of DHO Mardan	Against the vacant post of PMO BS-19
214	Dr. Shamsul Qamar PWMO BS-19	Civil Hospital Islamiya College Peshawar	RHC Takhtabad Peshawar	Against the vacant post of PMO BS-19
215	Dr. Fahmeeda Khan PWMO BS-19	Women and Children Hospital Bannu	Services placed at the disposal of DHO Bannu	Against the vacant post of PMO BS-19
216	Dr. Riaz Shahid PMO BS-19	Govt Naseerullah Babar Memorial Hospital Peshawar	Govt Naseerullah Babar Memorial Hospital Peshawar	Against the vacant post of PMO BS-19

SECRETARY HEALTH
Govt of Khyber Pakhtunkhwa

Encls. No & Date Even.

Copy to the:-

1. Accountant General Khyber Pakhtunkhwa, Peshawar
2. Director General Health Services, Khyber Pakhtunkhwa.
3. Director Health Services Merged Districts
4. Hospital/Medical Director LRH/KTH/HMC Peshawar
5. Hospital/Medical Director KGN/DHQ Hospital Di Khan
6. Medical Superintendents DHQ Hospitals mentioned above
7. District Accounts Officers mentioned above
8. PS to Minister Health, Khyber Pakhtunkhwa
9. PS Secretary Health, Khyber Pakhtunkhwa
10. Doctors concerned.



(FAZAL ALI)
SECTION OFFICER (E-V)

ATTACHED

Office Of The District Health Officer Swabi

Email ID: edohealthswabi@yahoo.com

Office Tel & Fax: 0938-300053

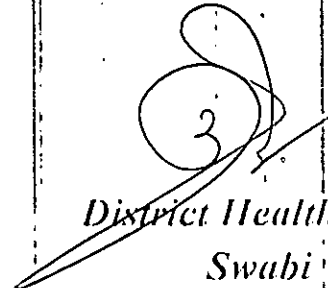
Fax No: 0938-300052




SERVICE CERTIFICATE

Certified that Dr. Taj Wali Shah S/O Gul Sher, is working at Civil Hospital Kabgani in the following capacity:

1. As a Medical Officer w.e.f 10.03.2016
2. As a Senior Medical Officer w.e.f 03.10.2017
3. As a Principal Medical Officer w.e.f 20.06.2019 Till date.


05/11/2019.
District Health Officer
Swabi
District Health Officer
Swabi


ATTESTED

D 14

GOVERNMENT OF KHYBER PUKHTUNKHWA PESHAWAR
CERTIFICATE OF TRANSFER OF CHARGE

Certified that I Dr. Taj Wali Shah SMO BS-18

Have this day ~~before~~ noon ~~taken over~~ charge of the office SMO CH Kabjani
after relinquished

Distt: Swabi with reference to the Order of the Khyber Pukhtunkhwa Government

No. SOH (E-V) 4-22/2019 Dated 31-5-2019

transferring Mr to

2. Particulars of Cash and Important/Secret/Confidential documents handed over/taken over are noted on the reverse.

Signature of relieved Government Servant [Signature]

Designation SMO CH Kabjani

Signature of Government Servant receiving Charge

Designation

Dated 12-6-2019 2018.

Station, CH Kabjani

Dated 11-06-2019

Endst. No. 2928-93/PE
From

To

1. Secretary Health Khyber Pukhtunkhwa Peshawar
2. Director General Health Services Khyber Pukhtunkhwa Peshawar
3. District Account Officer Swabi
4. Doctor Concerned.

5. HC CH Hospital Kabjani

The charge of the Office of

was transferred from Mr

to Mr

on the fore noon of the 2018.
after

Signature
Designation

[Signature]
District

15

GOVERNMENT OF KHYBER PUKHTUNKHWA PESHAWAR
CERTIFICATE OF TRANSFER OF CHARGE

Certified that I Dr. Taj Wali Swabi P.M.O. BS-19

Have this day before noon taken over charge of the office PMO CAT-C Hospital
after relinquished

Topi - Swabi with reference to the Order of the Khyber Pukhtunkhwa Government:

No. SOH (E-V) A - 22/2019 Dated 31-5-2019

transferring Mr.
to
2. Particulars of Cash and Important/Secret/Confidential documents handed over/taken over are noted on the reverse.

Station, CAT-C Hospital Topi

Dated 12-06-2019

Endst. No. 2982-87/RT
From

Signature of relieved Government Servant /

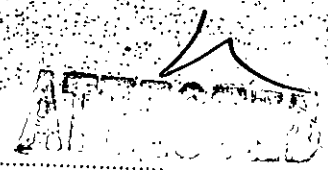
Designation

Signature of Government Servant receiving Charge [Signature]

Designation PMO BS-19

Dated 12-6-2019

- To
1. Secretary Health Khyber Pukhtunkhwa Peshawar.
 2. Director General Health Services Khyber Pukhtunkhwa Peshawar.
 3. District Account Officer Swabi
 4. Doctor Concerned
 5. 112 CAT-C Hospital Topi
 6.



The charge of the Office of
was transferred from Mr.
to Mr.
on the fore noon of the 2018.
after

Signature [Signature]
Designation



E (16) (5)

GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar, the 18th June, 2019

NOTIFICATION

NO.SOH(E-V)4-22/2019

In partial modification of this Department Notification of even number dated 31.05.2019, the competent authority is pleased to order posting/transfer of the following doctors with immediate effect in the public interest:-

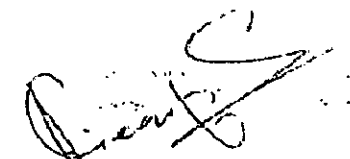
S#	Name of Doctor	From	TO
1.	Dr.Nasreen Haider PWMO BS-19	Attached to DHO Swabi	Category-C Hospital Topi Swabi
2.	Dr.Taj Wali Shah PMO BS-19	Civil Hospital Kabgani Swabi	Civil Hospital Kabgani Swabi

SECRETARY HEALTH
Govt of Khyber Pakhtunkhwa

Endst.No & Date Even

Copy to the:-

1. Accountant General Khyber Pakhtunkhwa
2. Director General Health Services Khyber Pakhtunkhwa.
3. District Health Officer Swabi
4. District Accounts Officer Swabi.
5. PS to Minister Health, Khyber Pakhtunkhwa
6. PS Secretary Health, Khyber Pakhtunkhwa
7. Doctor concerned.


(FAZAL ALI)
SECTION OFFICER (E-V)



OFFICE OF THE DISTRICT HEALTH OFFICER SWABI

Office Tel: 0938-300053 Fax No. 0938-300051 Email ID: edohealthswabi@yahoo.com
Facebook ID: <https://www.facebook.com/dho.swabi>, Twitter ID: <https://twitter.com/DHOSwabi2>

NO. 4897/DF DHO Office Swabi -- Dated 5 / 8 /2019
Computer Section DHO Office Swabi

SERVICE CERTIFICATE

Certified that Dr. Nasreen Haider remained posted at CH Topi (Cat C Hospital Topi) as WMO BPS-17 from 12/02/2009, then promoted to BPS-18 on 30/01/2017 and posted at the post of SWMO at CH Topi. She was then promoted to BPS-19, w.e.f 18/06/2019 and posted at Cat C Hospital Topi as Women Principal Medical Officer BPS-19.

*District Health Officer
Swabi*

*District Health Officer
Swabi*

ATTESTED

The
Secretary Health

Khyber Pakhtunkhwa Peshawar

Subject: APPEAL IN DEPARTMENT

Respected Sir

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10/25
11-07-19

I am working at Civil Hospital Kabgani (Cadoon) District Swabi (Hard Area) since 10-03-2016 as Medical Officer. Then Promoted to BPS-18 as Senior Medical Officer. Now I promoted as Principal Medical Officer on 31-05-2019 and posted at Cat "C" Hospital Topi and I took charge on 12-06-2019 against vacant post. on 18-06-2019, after six days I got transferred back to my old station (Civil Hospital Kabgani) and Dr. Nasreen Haider (WPMO) had been posted in my place. Dr. Nasreen Haider is working at this station (Cat "C" Hospital Topi-Swabi) for almost of all of her service. The reason for posting this lady doctor is being made that Lady Doctor is required for BEMONC service while the BEMONC centers are also running at Cat "D" Hospitals i.e. Kalu Khan & Yar Hussam where two and one Lady Doctor is working respectively. I worked at Civil Hospital Kabgani (Cadoon, Hard Area) for 3 years and 3 months. My back transfer to this station is discriminatory. Kindly make me posted at Cat "C" Hospital Topi (Swabi).

Dated: 09-07-2019 ✓

Sign
Dr. Taj Wali Shah
PMO (CH Kabgani)

ATTESTED

Better copy

The

Secretary Health

Khyber Pakhtunkhwa Peshawar

Subject: APPEAL IN DEPARTMENT

Respected Sir

I am working at Civil Hospital Kabgani (Gadoon) District Swabi (Hard Area) since 10-03-2016 as Medical Officer. Then Promoted to BPS-18 as Senior Medical Officer. Now I promoted as Principal Medical Officer on 31-05-2019 and posted at Cat "C" Hospital Topi and I took charge on 12-06-2019 against vacant post, on 18-06-2019, after six days I got transferred back to my old station (Civil Hospital Kabgani) and Dr. Nasreen Haider (WPMO) had been posted in my place. Dr. Nasreen Haider is working at this station (Cat "C" Hospital Topi-Swabi) for almost of all of her service. The reason for posting this lady doctor is being made that Lady Doctor is required for BEMONC service while the BEMONC centers are also running at Cat "D" Hospitals i.e. Kalu Khan & Yar Hussain where two and one Lady Doctor is working respectively. I worked at Civil Hospital Kabgani (Gadoon, Hard Area) for 3 years and 3 months. My back transfer to this station is discriminatory. Kindly make me posted at Cat "C" Hospital Topi (Swabi).

Dated: 09-07-2019

Sign



Dr. Taj Wali Shah

PMO (CH Kabgani)

Posting and Transfer

Statutory Provision.

Section 10 of the NWFP Civil Servants Act, 1973.

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

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

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

POSTING / TRANSFER POLICY OF THE PROVINCIAL GOVERNMENT

- i) All the posting/transfers shall be strictly in public interest and shall not be abused/misused to victimize the Government servants
- ii) All Government servants are prohibited to exert political, Administrative or any other pressures upon the posting/transfer authorities for seeking posing/transfers of their choice and against the public interest.
- iii) All contract Government employees appointed against specific posts, can not be posted against any other post.
- iv) The normal tenure of posting shall be three years subject to the condition that for the officers/officials posted in unattractive areas the tenure shall be two years and for the hard areas the tenure shall be one year. The unattractive and hard areas will be notified by the Government.

i) 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

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 3-5-2008. 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 shall make posting/transfer subject to observance of the policy.

H (19)

needs to be obtained. Whereas, in case of posting/transfer of officers in BS-18 and above, from settled areas to FATA and vice versa, specific approval of the Governor NWFP/shall be obtained.

- vi (a) All Officers/officials selected against Zone-I/FATA quota in the Provincial Services should compulsorily serve in FATA for atleast eighteen months in each grade. This should start from senior most scales/grades downwards in each scale/grade of each cadre.
- vii) Officers may be posted on executive/administrative posts in the Districts of their domicile except District Coordination Officers (D.C.Os) and DPOs/Superintendent of Police (SP). Similarly Deputy Superintendent of Police (DSP) shall not be posted at a place where the Police Station (Thaana) of his area/residence is situated.
- viii) No posting/transfers of the officer's/officials on detailment basis shall be made.
- ix) Regarding the posting of husband/wife, both in Provincial services, efforts where possible would be made to post such persons at one station subject to the public interest.
- x) All the posting/transferring authorities may facilitate the posting/transfer of the unmarried female government Servants at the station of the residence of their parents.
- xi) Officers/officials except DCOs and DPOs/SPs who are due to retire within one year may be posted on their option on posts in the Districts of their domicile and be allowed to serve there till the retirement
¹DCOs and DPOs who are due to retire in the near future may also be posted in the District of their domicile subject to the condition that such posting would be against non-administrative posts of equivalent scales;
- xii) In terms of Rule-17(1) and (2) read with Schedule-III of the NWFP Government Rules of Business 1985, transfer of officers shown in column 1 of the following table shall be made by the authorities shown against each officer in column 2 thereof:

Outside the Secretariat		
1.	Officers of the all Pakistan Unified Group i.e. DMG, PSP including Provincial Police Officers in BPS-18 and above.	Chief Secretary in consultation with Establishment Department and Department concerned with the approval of the Chief Minister.

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Must be true copy
 Chief Secretary
 Government of Khyber Pakhtunkhwa
 Peshawar

ATTES



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	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. Tenure on present post shall also be taken into consideration and the posting/transfers shall be in the best public interest.

Government servants including District Govt. employees feeling aggrieved by orders of posting/transfer authorities may seek remedy from the authority / the appointing authority as the case may be through 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.

5. All concerned are requested to ensure that tenures of the concerned officers/officials are invariably mentioned in summaries submitted to the Competent Authorities for Posting/Transfer.

{Authority: Letter No. SOR-VI/ESAD/1-4/2003 dated 24-6-2003}.

21

ATTACHED

PLACEMENT POLICY.

In order to utilize the expertise of the officers who have received foreign training in various fields, the provincial Government has decided to adopt the Placement Policy, approved by the Prime Minister of Pakistan, and make it a part of its Posting/Transfer Policy. Placement Policy as follows:-

- i) All placements would be made on the basis of merit and keeping in view the needs of the organization.
- ii) The first priority in placement must go to the parent organization of the participant from where the individual had applied. This will be in consonance with the concept of establishing the "Need" for the department and fulfilling the need through "capacity building for the organization.
- iii) In order to follow the "bottom up approach" for Devolution, the priority within departments must go to the Districts, the Provinces and then the Federal Government.
- iv) The second priority in placement should go to up-grading the existing training Institution within the country. The knowledge gained by the officers, will be of immense value to bring about a qualitative change in the training institutions. The following proposals are made in this regard:
 - a) Permanent posting of an officer to the training institutions for 2-3 years;
 - b) Temporary attachment with the training institutions for 3 to 6 months for some research project on helping in developing case studies;
 - c) Earmarked as a visiting faculty member for specific subject.
- v) Individuals posted to their parent organizations will also organize training for their subordinates within the department, in order to transfer the knowledge and bring about a qualitative change internally;
- vi) The Normal tenure of posting as already provided in the policy would be ensured;
- vii) No participant should be allowed to be posted on deputation to multinational donor agencies for at least 5 years;
- viii) No participant will decline/repent against his/her posting.

has been made part of the posting/transfer policy vide Urdu VI(E&AD)1-4/53, dt 9-2-2007

Posting/transfer from FATA and vice versa.

I am directed to refer to the subject noted above and to state that the Centrally Administered Tribal Areas (Employees' Status) Order 1972 (President's Order No. 13 of 1972) provides that:-

"Notwithstanding anything contained in their condition of service, the employees shall from the appointed day, be the employees of the Provincial government on deputation to the Federal Government and shall work under the overall administrative control of the Provincial government, on the same terms and conditions of service as respects remuneration, leave and pension and the same rights as respects disciplinary matters or tenure of office as were applicable to them immediately before that day; provided that the employees shall not be entitled to deputation allowance for their service after the appointed day".

2. According to the Posting/Transfer Policy of the Provincial Government, the Governor NWFP and the Chief Secretary NWFP are the competent authorities for posting/transfer of Civil Servants in BS-18 and above and up to BS-17 respectively. The policy prescribes two years normal tenure of posting in FATA. Similarly, it is obligatory for all the Provincial Government employees who have been selected against Zone-I/FATA Quota to compulsorily serve in FATA for at least eighteen months.

3. It is evident from the above that employees serving in FATA are under the administrative control of the Provincial Government. However, after establishment of FATA Secretariat, it was felt imperative to have linkage between the Provincial Departments and the FATA Secretariat so that public service delivery does not suffer due to frequent reshuffling of staff without knowledge of that Secretariat.

4. Taking cognizance of frequent posting/transfer of officers/officials from FATA to settled areas and vice versa by the respective Departments without prior consultation with the FATA Secretariat, it was emphasized on all the Administrative Departments, vide circular letter No SO(E-1) E&AD/9-126/2006/Vol-II dated 26th January, 2007 that the said Secretariat should invariably be consulted before issuing orders of Posting/Transfer of Government Servants from and to FATA. However, the FATA Secretariat have frequently conveyed their apprehensions that these instructions are not being followed, and at times a very embarrassing situation for the FATA Secretariat is created as work suffers due to shortage of staff which becomes a serious issue in the prevailing law and order situation in FATA.

5. In view of above, it is reiterated that:-

(i) All Provincial Government Departments are directed to move proposals for posting out of an employee from FATA only when a substitute is proposed in the same case.

(ii) On consent from the FATA Secretariat and approval of the proposal by the competent authority, the substitute to FATA would invariably give his arrival for duty before the employee being transferred out of FATA is relieved.

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- (iii) Provincial Government Departments may not accept the arrival report of an employee transferred out of FATA till his proper relieving order is issued by the FATA Secretariat.
- (iv) The Accountant General (PR) is also requested that Last Pay Certificate of an employee transferred out of FATA but not relieved properly by the FATA Secretariat may not be issued in any circumstances.
- (v) Instruction issued vide letter No.SO (E-1) E&AD /9-126/2006/Vol-II dated 26th January, 2007 (quoted in Para-4 above) should be followed strictly.
- (vi) No NOC in respect of transfer from FATA to settled area issued by any Head of Line Department of FATA Secretariat should be accepted. Only those NOCs, which have been issued by the Administration & Coordination Department, FATA Secretariat, should be considered.
- (vii) Tenure of Civil Servants must be kept in view while issuing NOC for posting/transfer or considering postings/transfers.
- (viii) No NOC's should be issued in respect of employees in BS-1-15 who is from agency cadre and in whose respect Political Agent and Agency officer have been declared as appointing authorities.
- (ix) Persons appointed in agency cadre, if appointed in the settled areas will resign from service in FATA and will resume service in settled areas as a fresh candidate.
- (x) NOCs may be issued in respect of employees of the Provincial cadres i.e. BS-16 and above only after completion of their normal tenure and they shall not be transferred out of FATA unless their substitutes are provided simultaneously.

6. It is requested that the above Policy may be followed in letter and spirit, in further, in public interest.

(Authority: No. SOR-VI/E&AD/1-4/2008-Vol:VH Dated Peshawar, 30th March, 2009)

Change in policy to fill vacant posts in FATA to ensure better human resource management

I am directed to refer to the subject and to state that the competent authority has been pleased to make following changes to the posting/transfer Policy of Government in respect of candidates selected from Zone-I (FATA:-

servant recruited against Zone-I by Public Service Commission shall directly report to FATA Secretariat. A copy of the

Secretariat who shall endorse it to the concerned administrative department in the Provincial Government. The FATA Secretariat shall arrange medical and security clearance and thereafter submit a case through the respective administrative department seeking approval of the appointing authority. The appointment letter shall be issued by FATA Secretariat on behalf of the respective administrative department. Posting orders shall also be issued by FATA endorsing copies to the respective department where personal file of the civil servant is to be maintained. This arrangement shall be confined to recruitments made in BS-16 and 17 but shall exclusive PMS.

- b) In case of disciplinary action, while the appointing and appellate authorities shall remain the same charge sheets/statement of allegations and show cause shall be prepared by FATA Secretariat and submitted in the form of a summary through Establishment Department. Leave accounts and GP Fund withdrawals shall also be dealt by FATA Secretariat based on the codal formalities as observed by the Provincial Government Departments.
- c) Copies of all necessary orders in respect of such officers/officials made by FATA Secretariat shall be endorsed to respective administrative departments for record.

(Authority; letter No.SOR-VI/E&AD/1-10/2009, dated 30th July, 2010)

**Guidelines for transfer/posting of Naib Tehsildars/
Political Naib Tehsildars / Assistant Political Agents.**

I am directed to refer to the subject and to say that the competent authority has been pleased to approve the following guidelines for posting/ transfer of Naib Tehsildars/Political Naib Tehsildars/Assistant Political Agents:-

- i. The proposal will be initiated by the respective Political Agent or DCO and addressed to the concerned commissioner. If there is no disagreement the proposal will be forwarded to FATA Secretariat for further processing.
- ii. In case of disagreement, Commissioner will try to find a consensus candidate in consultation with Political Agent or DCO. However, if disagreement continues FATA Secretariat will make the final decision.
- iii. Political Agent/DCO will ensure that while proposing the officer for transfer/posting all the stakeholders have been consulted, particularly the LEAs who are conducting active operations in the tribal belt these days.
- iv. It should be ensured that the officers are not posted to the same appointments repeatedly; and that the proposal is purely based on merit and has not been influenced by the outside elements.

23
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ESTA CODE [Establishment Code Khyber Pakhtunkhwa]

- v. The service profile of the proposed officer needs to be attached with every proposal.
- vi. Posting of officer from Hard area to Soft area or vice versa should be one of the factor in determining the suitability.
- vii. A routine tenure may be respected. However, due to the current situation in FATA there are cases of burnt out due to continuous emergent duties. In such circumstances an officer may be recommended for posing before the normal tenure.
- viii. Political Tehsildars (PT)/Naib Tehsildars. (NT) will not stay in the same division for more than five years continuously and may only be posted back to the same Division after serving minimum of three (3) years in any other Division.

2. It is requested that above guidelines may be followed in letter and spirit, in future, in public interest.

(Authority; letter No. SOR-VI/E&AD/1-4/ 2010/Vol-VIII, Dated 10th February, 2010)

Inter Provincial Transfer

Attention is invited to Rule-8 of the NWFP, Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 where under Inter-Provincial Transfers of employees in BPS 1 to 15 and 16 and above are permissible subject to the fulfilment of conditions laid down in the aforesaid rule. However, in most of the cases, the requests for Inter-Provincial Transfers are not strictly scrutinized in the light of the aforesaid rules which creates not only embarrassment for the S&GAD but also causes delays in finalizing of such cases.

2. While examining cases, it has been noticed that inter-provincial transfer results in an over all increase of officials in the NWFP, which is against the downsizing policy of the Government. The un-employment situation in NWFP is more acute than in any other province. Large scale transfers of officials from other provinces would also deprive the people of NWFP from employment in other Provinces. It may, therefore, be necessary to restrict the inter-provincial transfers to very exceptional cases where a strong humanitarian ground exists or where technical expertise, which is not available in the province, is required.

3. It is requested that the provisions of Rule-8 of the NWFP Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 may be observed strictly while recommending cases of inter-provincial transfers, with full justification for consideration of the competent authority.

Authority : S&GAD's letter No. SORI(S&GAD)2-27/86, dated 1.11.1997)

(2)

ESTA CODE [Establishment Code Khyber Pakhtunkhwa] 93

Identification of Unattractive/Hard Areas policy;

I am directed to refer to the subject and to say that the Provincial Cabinet in its meeting held on 30th March, 2010 inter-zila approved the following for the purpose of Posting/ Transfer Policy:-

1. The distinction between unattractive/hard areas should be done away with and both should be labeled as Unattractive areas.
2. Existing list of FATA areas be retained.
3. The following areas were recommended/approved to constitute unattractive areas in NWFP:-
 - a. Kohistan District.
 - b. Tank District.
 - c. Chitral District.
 - d. Battgram District.
 - e. Shangla District.
 - f. Hungu District.
 - g. PATA areas of Mansehra (Kala Dhaka)

Tenure of posting.

- i. The erstwhile-normal tenure of 2 years be retained.
- ii. Existing tenure for unattractive areas be retained. However, in case of married civil servants, transfer should be made just at the beginning of school session and tenure should be one year instead of 1.5 year, so that academic disruptions are avoided.
- iii. At the time of entry in service, all civil servants be asked to give 4 options from unattractive areas.
- iv. After a stint of service in unattractive area, employees may be offered option to serve in district of choice.

(Authority; letter No. SOR-VI/E&AD/1-4/ 2010/Vol-VIII, Dated, 10th April, 2010)

24

ALISTED

Cancellation of transfer order without any reason

95

BEFORE THE KPK SERVICE TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

APPEAL NO. 66 /2018

Diary No. 48

Dated 16-1-2018

Muhammad Miskeen, Head Clerk, (BPS-16)
Hazara Irrigation Division, Abbottabad.



(APPELLANT)

VERSUS

1. The Secretary to Govt. of KP Irrigation Deptt., Peshawar.
2. The Chief Engineer (SOUTH) Irrigation Deptt., KP, Peshawar.
3. Muhammad Hamayun Head Clerk, Swabi Irrigation Division No.2 Swabi.

(RESPONDENTS)

APPEAL UNDER SECTION 4 OF THE SERVICE TRIBUNALS ACT, 1974 AGAINST THE ORDER DATED 13.12.2017 WHEREBY THE APPELLANT TRANSFER ORDER 2.11.2017 HAS BEEN CANCELLED, JUST AFTER ABOUT 1 MONTH PREMATURELY AND UTTER VIOLATION OF POSTING TRANSFER POLICY, AND AGAINST REJECTION ORDER DATED 08.1.2018 WHEREBY THE DEPARTMENTAL APPEAL OF THE APPELLANT WAS REJECTED FOR NO GOOD GROUNDS.

PRAYER:

THAT THE ACCEPTANCE OF THIS APPEAL, THE IMPUGNED ORDER DATED 13.12.2017 and 08.1.2018, MAY BE SET ASIDE BEING, PASSED PREMATURELY AND VIOLATION OF POSTING/TRANSFER POLICY. THE RESPONDENT DEPTT: MAY FURTHER PLEASE BE DIRECTED NOT TO TRANSFER THE APPELLANT PREMATURELY AND IN VIOLATION OF POSTING/TRANSFER POLICY. ANY OTHER REMEDY WHICH THIS AUGUST TRIBUNAL DEEMS FIT AND APPROPRIATE THAT MAY ALSO BE AWARDED IN FAVOUR OF APPELLANT.

*Filed to
Registrar
16/1/18*

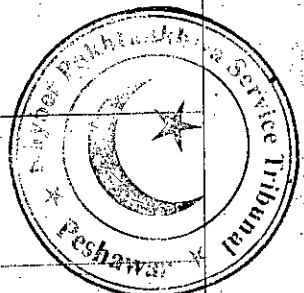
*Re-submitted
by day 19/1/18*

ATTESTED

[Signature]
EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Sr. No. Date of order/proceedings

Order or other proceedings with signature of Judge or Magistrate.



BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

Service Appeal No. 66/2018

Date of Institution ... 16.01.2018
Date of Decision ... 04.04.2018

Muhammad Miskeen, Head Clerk, (BPS-16) Hazara Irrigation Division, Abbottabad.

APPELLANT

1. The Secretary to Government of Khyber Pakhtunkhwa Irrigation Department, Peshawar.
2. The Chief Engineer (SOUTH) Irrigation Department, Khyber Pakhtunkhwa Peshawar.
3. Muhammad Hamayun Head Clerk, Swabi Irrigation Division No.2 Swabi.

RESPONDENTS

JUDGMENT

MUHAMMAD HAMID MUGHAL, MEMBER: -

04.04.2018

Learned Counsel for the appellant present. Learned Deputy District Attorney on behalf of official respondents present. Learned Counsel for private respondent No. 3 present.

2. The appellant has filed the present appeal u/s 4 of Khyber Pakhtunkhwa Service Tribunal Act, 1974 against the order dated 13.12.2017 whereby transfer/posting order dated 02.11.2017 regarding transfer of appellant from

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EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

Swabi Irrigation Division No.2 Swabi to Hazara Irrigation Division Abbottabad was cancelled. The departmental appeal of the appellant could not prove successful. Hence the present service appeal.

3. Learned counsel for the appellant argued that the appellant was stationed at Swabi Irrigation Division since year 2014 while respondent No.5 was stationed at Hazara Irrigation Division Abbottabad since year 2014; that vide order dated 02.11.2017 the appellant was transferred to Hazara Irrigation Division Abbottabad while respondent No.3 was transferred to Swabi Irrigation Division No.2 Swabi, however just after one month of the issuance of transfer order, the respondent department cancelled the same vide impugned order dated 13.12.2017 on the basis of political influence and in violation of transfer/posting policy. Learned counsel for the appellant vehemently stressed that the impugned order is liable to be set aside.

4. As against that learned counsel for private respondent argued that the appellant was promoted as Head Clerk vide order dated 07.11.2016 and was still on probation when the transfer order dated 02.11.2017 was issued hence the same

ATTESTED

EXAMINER
Khyber Pakhtunkhwa
Service Tribunal,
Peshawar

28

was rightly cancelled by the respondent department. Further argued that after promotion to the post of Head Clerk on regular basis vide order dated 07.11.2016 the appellant has not yet completed his normal tenure at Swabi Irrigation Division No.2 Swabi as such the impugned order is not open to any exception.

5. Learned DDA adopted the arguments of Learned counsel for private respondent and relied upon the written reply/para wise comments of the official respondents.

6. Arguments heard. File perused.

7. It is not disputed that the appellant was serving at Swabi Irrigation Division No.2 Swabi and respondent No.3 was serving at Hazara Irrigation Division Abbottabad since year 2014 and vide order dated 02.11.2017 the appellant was transferred from Swabi to Abbottabad while respondent No.3 was transferred from Abbottabad to Swabi. However after one month of issuance of transfer order, the same was cancelled by respondent department without assigning any reason in the impugned order dated 13.12.2017.

8. Learned DDA remained unable to demonstrate any

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 Khush PS, Lunkhwa
 Service Tribunal,
 Peshawar



valid reason or exigencies of service due to which the transfer order dated 02.11.2017 was cancelled just after one month of its issuance.

9. There is no dispute that the respondent No.3 has already served for a period more than his normal tenure at Abbottabad before his transfer to Swabi Irrigation Division No.2 Swabi vide order 02.11.2017. Arguments of learned counsel for private respondent No.3 that the appellant should not be transfer out from Swabi Irrigation Division No.2 Swabi being a probationer, carries no weight.

10. In the light of above discussion this Tribunal is of the considered opinion that the impugned order dated 13.12.2017 is arbitrary and issued on extraneous considerations, hence not tenable in the eyes of law. Consequently the present service appeal is accepted and the impugned order dated 13.12.2017 is set aside, resultantly the transfer order dated 02.11.2017 is restored. Parties are left to bear their own costs. File be consigned to the record room after its completion.

Certified to be true copy


Khyber Pakhtunkhwa
Secretariat, Peshawar

VAKALAT NAMA

NO. _____/20

IN THE COURT OF Jaf Sewia Tribunal, Pesh

Dr. Taj Wali Sheli (Appellant)
(Petitioner)
(Plaintiff)

VERSUS

Health Depto (Respondent)
(Defendant)

I/We, Dr. Taj Wali Sheli

Do hereby appoint and constitute **M. Asif Yousafzai, Advocate Supreme Court 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 costs.

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. The Advocate/Counsel is also at liberty to leave my/our case at any stage of the proceedings, if his any fee left unpaid or is outstanding against me/us.

Dated 26-11/2019

[Signature]
(CLIENT)

ACCEPTED

[Signature]
M. ASIF YOUSAFZAI
Advocate Supreme Court
Peshawar.
B.C NO# 10-7327
CNIC # 17301-5106574-3

OFFICE:

Room # FR-8, 4th Floor,
Bilour Plaza, Peshawar,
Cantt: Peshawar
Cell: (0333-9103240)

[Signature]
Syed Noman Ali Bakh
Advocate High Court

VAKALATNAMA

IN THE Khyber Pakhtunkhwa Service Tribunal
at Peshawar.

Suit
Application
Appeal
Case
Execution
Writ Petition

No. 1587 of 2020 2019.

Dr. Raj Wali Shah

Plaintiffs
Applicants
Appellants
Petitioner
D/H

VERSUS

Govt. of KP & OR

Defendants
Opponents
Respondents
J/D

I/We Dr. Nasreen the Respondent in the above Service appeal do hereby appoint MR. MUKHTAR AHMAD MANERI, ADVOCATE SUPREME COURT OF PAKISTAN, MR. RAHMANULLAH KHAN, ADVOCATE HIGH COURT, MR. MANZOOR AHMAD YOUSAFZAI AND MR. NASEER UD DIN YOUSAFZAI ADVOCATES to appear and act for me/us in the above mentioned proceedings and to conduct, prosecute and/or defend and/or compromise the same and any other proceedings that may arise out of or be connected with the same, with full power and authority to sign all necessary pleadings, petitions, applications papers and documents, to pay all proper fees and costs, to file and withdraw all documents and to apply for and receive payment of all moneys that may be or become due and payable to me/us during the course or after the completion or conclusion of the said proceedings, and to settle, compromise or to withdraw the said proceedings.

Received on 24-03-2020 from Dr. Nasreen

Signature

Accepted

Respondent No 4

ADVOCATE

ADVOCATE

ADVOCATE

ADVOCATE

030-5958088

Mukhtar Ahmad Maneri & Associates
Advocates & Legal Consultants

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 1587/2019

Dr. Taj Wali Shah

..... Appellant

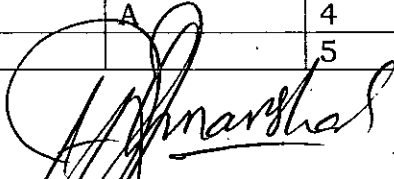
VERSUS

1. *The Govt. of Khyber Pakhtunkhwa through Chief Secretary.*
2. *The Chief Secretary of Khyber Pakhtunkhwa.*
3. *The Secretary Health Govt. of Khyber Pakhtunkhwa*

..... Respondents

INDEX.

S.No	Description of documents	Annexure	Page
01	Parawise Comments		1 to 3
02.	Annex	A	4
03	Affidavit		5


(Section Officer Lit-II)
Govt. of Khyber Pakhtunkhwa
Health Department

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR

Service Appeal No. 1587/2019

Dr. Taj Wali Shah

..... Appellant

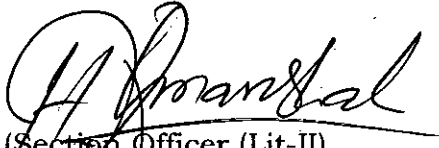
VERSUS

1. *The Govt. of Khyber Pakhtunkhwa through Chief Secretary.*
2. *The Chief Secretary of Khyber Pakhtunkhwa.*
3. *The Secretary Health Govt. of Khyber Pakhtunkhwa*

..... Respondents

AFFIDAVIT.

I Mr. Hafeez-ur-Rehman Shah Section Officer (lit-II) Govt. of Khyber Pakhtunkhwa Health Department do hereby solemnly affirm and declare that the joint parawise comments in Service Appeal No. 1587/2019 at Page 1-3 is submitted on behalf of respondents No. 1 , 2 & 3 is true and correct to the best of my knowledge, belief and that nothing has been concealed from this Hon'ble Court.


(Section Officer (Lit-II))
Govt. of Khyber Pakhtunkhwa
Health Department

Identified by:-

Addl: Advocate General,
Khyber Pakhtunkhwa

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

SERVICE APPEAL NO. 1587/2019

Dr. Taj Wali Shah Appellant

Versus

Govt. of Khyber Pakhtunkhwa and others..... Respondent

RESPECTFULLY SHEWETH:

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

PRELIMINARY OBJECTIONS:-

1. That the Appellant has got neither cause of action nor locus standi to file the instant Appeal.
2. That the Appellant has filed the instant appeal just to pressurize the respondents.
3. That the instant Appeal is against the prevailing Law and Rules.
4. That the Appeal is not maintainable in the present form and also in the present circumstances of the issue.
5. That the Appellant has filed the instant Appeal with mala-fide intention hence liable to be dismissed.
6. That the Appellant has not come to the Tribunal with clean hands.
7. That the Appeal is time barred.
8. That the Honorable Tribunal has no Jurisdiction to adjudicate upon the matter.
9. That the instant appeal is bad for mis-joinder and non-joinder of the necessary parties.

ON FACTS:

1. Pertains to record.
2. Pertains to record.

3. Pertains to record.
4. Pertains to record.
5. No comments.


ON GROUNDS:

- A. Incorrect. The appellant was treated as per rule. No order was issued on extraneous pressure or political motivation.
- B. Incorrect. In light of the Civil Servant Act 1973 Section 10 "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 established by any such government". As per Esta Code 2011 provides that Posting/Transfer policy of the Provincial Government "That all government servants are prohibited to exert political, administrative or any other pressures upon the posting/ Transfers authority for seeking posting of their choice and against the public interest".
- C. Need no comments, however, Section 4 of Civil Servant Act 1973, is categorically clear when it says "Every Civil Servant shall hold office during the pleasure of Governor".
- D. As per ESTA CODE, that the competent authority has been pleased to direct that Para 1(v) of the Posting/ Transfer Policy contained in this Department letter No:SOR-I (E&AD) 1-1/85 Vol-II, dated 15-2-2003 shall stand deleted, with immediate effect, consequently allowing the authorities, competent under the NWFP Government Rules of Business, 1985 and the District Government Rules of Business, 2001 or any other rules for the time being in force, to make posting/transfers of Government servants, any time during the year, in genuinely deserving and necessary cases, in public interest, subject to strict observance of all other provisions of posting/transfer policy contained and notified vide circular letter under reference. Hence there will be no ban on posting/transfer of Government Servants in any part of the year while carrying out posting/transfers of Government Servants (**Annex-I**).

- E. As per Para-D.
- F. As per Para-D.
- G. Incorrect. The order is speaking and well reasoned.
- H. As replied in above Paras.
- I. Every case is decided in the light of its own fact.
- J. As per Para-B.
- K. Incorrect. That the appellant has been treated in accordance with law/rules and no rights of the appellant has been violated
- L. The respondents seek leave to raise additional grounds at the time of arguments.

PRAYER:

It is therefore humbly prayed that on acceptance of the comments, the instant Appeal may very graciously be dismissed with Cost.


Secretary Health
Govt. of Khyber Pakhtunkhwa
(Respondent No. 01,02 & 03)

The competent authority has been pleased to direct that Para 1(v) of the Posting/Transfer Policy contained in this Department letter No:SOR-I (E&AD) 1-1/85 Vol-II, dated 15-2-2003 shall stand deleted, with immediate effect, consequently allowing the authorities, competent under the NWFP Government Rules of Business, 1985 and the District Government Rules of Business, 2001 or any other rules for the time being in force, to make posting/transfers of Government servants, any time during the year, in genuinely deserving and necessary cases, in public interest, subject to strict observance of all other provisions of posting/transfer policy contained and notified vide circular letter under reference. Hence there will be no ban on posting/transfer of Government Servants in any part of the year while carrying out posting/transfers of Government Servants.

The authorities concerned will ensure that no injustice whatsoever is caused to any civil servant, public work is not suffered and service delivery is improved.

I am therefore directed to request that the provisions of posting/transfer policy, as amended to the extent above, may kindly be followed in letter and spirit in future so as to keep good governance standard in this regard.

(Authority: Letter No: SOR-VI (E&AD) 1-4/2008/Vol-VI, dated 3-6-2008).

The Chief Minister NWFP has directed that:-

- i) Submission of summary would not be required in case of mutual transfer.
- ii) Posting/transfer shall be made according to the policy;
- iii) Government Servants shall avoid direct submission of applications to the Chief Minister;
- iv) In genuinely deserving case, they should approach the Administrative Secretaries who could process the case according to policy;
- v) In case of direct submission of application to the Chief Minister Secretariat for Posting/ Transfer; the concerned Govt servants shall be proceeded against under the prevalent rules and regulations.

(Authority: Urdu circular No; SOR-VI/E&AD/1-4/2003, dated 8-6-2004 & Urdu Letter No: SOR-VI/E&AD/Misc: /2005, dated 3-1-2006)

It has been decided with the approval of the competent authority that:-

- i) Mutual transfer would be allowed if both the concerned employees agree; except the Government Servants holding Administrative posts;
- ii) NWFP Government Rules of Business 1985 shall be observed while issuing posting/transfer orders.

(Authority: -Urdu circular letter No: SOR (E&AD)/1-4/2005, dated 9-9-2005)

The competent authority has decided that in order to maintain discipline, enhance performance of the departments and ensure optimum service delivery to the masses, the approved/prevalent policy of the posting/transfer shall be strictly followed. Government Servants violating the policy and the NWFP Govt Servants (Conduct) Rules 1987 shall be

The

Secretary Health

Khyber Pakhtunkhwa Peshawar

Subject: APPEAL IN DEPARTMENT

Respected Sir

I am working at Civil Hospital Kabgani (Gadoon) District Swabi (Hard Area) since 10-03-2016 as Medical Officer. Then Promoted to BPS-18 as Senior Medical Officer. Now I promoted as Principal Medical Officer on 31-05-2019 and posted at Cat "C" Hospital Topi and I took charge on 12-06-2019 against vacant post. on 18-06-2019, after six days I got transferred back to my old station (Civil Hospital Kabgani) and Dr. Nasreen Haider (WPMO) had been posted in my place. Dr. Nasreen Haider is working at this station (Cat "C" Hospital Topi-Swabi) for almost of all of her service. The reason for posting this lady doctor is being made that Lady Doctor is required for BEMONC service while the BEMONC centers are also running at Cat "D" Hospitals i.e. Kalu Khan & Yar Hussain where two and one Lady Doctor is working respectively. I worked at Civil Hospital Kabgani (Gadoon, Hard Area) for 3 years and 3 months. My back transfer to this station is discriminatory. Kindly make me posted at Cat "C" Hospital Topi (Swabi).

Dated: 09-07-2019

Sign



Dr. Taj Wali Shah

PMO (CH Kabgani)

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Pakhtkwa

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

Appeal No. 1587/2019

Dr. Taj Wali Shah V/S Health Department

I N D E X

S.No	Description of Documents	Annex	Pages
1.	Para-wise Reply on behalf of Respondent No. 4		3-4
2.	Copy of arrival report	A	5
3.	Copy of letter No. 3136/PF /DHO Swabi dated 17.06.2019	B	6
4.	Copy of Notification dated 18.06.2019	C	7

Through

Respondent No. 4

Mukhtar Ahmad Maneri

Advocate, Supreme Court of Pakistan Peshawar.
Office # 2, 2nd floor, Juma Khan Plaza, Near
FATA Secretariat, Warsak Road, Peshawar.
Ph: 091-5200710, Mob: 0333-215-6006
Email: mukhtaradvocate@yahoo.com

1

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

Appeal No. 1587/2019

Dr. Taj Wali Shah V/S Health Department

PARAWISE REPLY ON BEHALF OF RESPONDENT

NO. 4

Respectfully Sheweth:

Preliminary Legal Objections

1. That the appellant has got no cause of action.
2. That appeal is based on malafide in order to achieve ulterior motives.
3. That appeal is bad for mis-joinder and non-joinder of necessary parties.
4. That appeal of the appellant is time barred.

Para-wise Reply on Facts:

1. That para-1 needs no reply.
2. That para-2 of the appeal is matter of record.
3. That the contents of para-3 as narrated are incorrect. When the promotion order was issued on 31.05.2019, the services of the answering respondent were placed at the disposal of District Health Officer Swabi and she took over charge at DHO office Swabi vide Arrival Report dated 17.06.2019. **Copy of arrival report is attached herewith and marked Annexure "A".**

2

It is pertinent to mention here that when it was realized that the services of the answering respondent (being Women Medical Officer) are required in Cat-C Hospital Topi whereby the District Health Officer vide his proposal dated 17.06.2019. The District Health Officer Swabi requested the respondent No. 3 i.e. Secretary Health Khyber Pakhtunkhwa that Dr. Nasreen Haider may kindly be retained at Category C Hospital Topi District Swabi against the vacant post of PMO BS-19 as 24/7 BEmONC Centre is functional at Cat-C Hospital Topi and WMO is required in the larger public interest. Moreover, Dr. Taj Wali Shah may please be retained at Civil Hospital Kabgani against the sanctioned vacant post of PMO BS-19. **Copy of letter No. 3136/PF /DHO Swabi dated 17.06.2020 is attached herewith and marked annexure "B".**

Keeping in view, the requirement and sensitivity of the matter vide Notification No. SOH(E-V)4-22/2019 dated 18.06.2019, the worthy Secretary Health KPK being the competent authority issued the above mentioned notification and as such properly and legally the answering respondent was posted at Cat-C Hospital Topi Swabi. **Copy of Notification dated 18.06.2019 is attached herewith and marked Annexure "C".**

4. That Para-4 is needs no reply, however, the appellant has got no right to challenge the legality and validly of the order dated 18.06.2019.
5. That Para-5 is formal.

3

Para-wise reply in grounds

- A. That para-A is incorrect. It is submitted that the appellant has badly failed to point out any political malice on the part of respondents that the order dated 18.06.2019 has been issued malafidely as such the appeal is liable to be dismissed.
- B. That para-B of the ground are wrong because the Government is very much competent and empower to issue transfer/posting order in the best interest of public at large, hence the appellant has failed to point out any illegality or irregularity.
- C & D. That paras-C & D as urged are maneuvered. It is pertinent to mention here that when it was realized that the services of the answering respondent being Women Medical Officer are required the District Health Officer Swabi vide his proposal dated 17.06.2019 requested the respondent No. 3 i.e. Secretary Health Khyber Pakhtunkhwa that Dr. Nasreen Haider may kindly be retained at Cat-C Hospital Topi District Swabi against the vacant post of PMO BS-19 as 24/7 BEmONC Centre is functional at Cat-C Hospital Topi and WMO is required in the larger public interest. Moreover, Dr. Taj Wali Shah may please be retained at Civil Hospital Kabgani being his native town against the sanctioned vacant post of PMO BS-19. Keeping in view, the requirement and sensitivity of the matter vide Notification No. SOH(E-V)4-22/2019 dated 18.06.2019, the worthy Secretary Health KPK being the competent authority issued the above mentioned notification and

(4)

as such properly and legally the answering respondent was posted at Cat-3 Hospital Topi Swabi.

E to K: That paras-E to K as urged are misconceived. Detailed reply has given in the preceding paras, however, in addition to above, it is submitted that this is essential service and it is crystal clear that there was dire need of lady doctor in Cat-C Hospital at Topi which in no way could be avoided as such the worthy Secretary Health issued the transfer order dated 18.06.2019 because there is no strict requirement or adherence to the policy referred to by the appellant. In such like circumstances, it is the nature of the job and requirement in the public interest is always given weightage and the appellant is failed to point out any sort of political whims or malice on the part of Health Department as such the appeal is liable to be dismissed on this score alone. The case law referred is also not attracted to the instant case because this is the prerogative of the Government to cancel, issue any sort of transfer order in the best interest of public.

L: Para-L is former.

It is, therefore, prayed that appeal of the appellant may kindly be dismissed with cost.

Respondent No. 4

Through

Mukhtar Ahmad Maneri
Advocate, Supreme Court
of Pakistan

Dated: 21.07.2020

(5)

(A)

GOVERNMENT OF KHYBER PUKHTUNKHWA, PESHAWAR
CERTIFICATE OF TRANSFER OF CHARGE

1. Name of the Officer: Dr. Nareen Haider P.M.O BPS-19

2. This day before noon taken over charge of the office Govt D.H.O office Swabi
after relinquished

with reference to the Order of the Khyber Pukhtunkhwa Government

3. No. SOH(E-V) 4-21/2019 Dated 31-5-2019

4. Particulars of Cash and Important/Secret/Confidential documents handed over/taken over are noted on the reverse.

Signature of relieved Government Servant.....

Designation.....

Signature of Government Servant receiving Charge.....

Designation P.M.O BPS-19

Dated 31-5-2019 2018.

Station D.H.O office Swabi

Date 31/5/2019 (A.N)

Index No. 3122-28 (P.F)

District Health Officer Swabi

- 1. Secretary Health Khyber Pukhtunkhwa Peshawar.
- 2. Director General Health Services Khyber Pukhtunkhwa Peshawar.
- 3. District Account Officer Swabi
- 4. Director Concerned.
- 5. ~~Head of Hospital~~ Account Section D.H.O office Swabi
- 6.

The charge of the Officer of
was transferred from Mr.
to Mr.
on the fore noon of the 2018
after

Signature.....

Designation District Health Officer

(6)

(B)

OFFICE OF THE DISTRICT HEALTH OFFICER SWABI

Tel: 0939-300053 Fax: 0939-300051 Email ID: ed@healthswabi@yahoo.com
Facebook: <https://www.facebook.com/dho.swabi> Twitter ID: <https://twitter.com/DHOSwabi>

3136/PE / DHO Swabi

Dated: 17/6/2019

The Secretary to Govt. of Khyber Pakhtunkhwa,
Health Department, Peshawar

Subject: PROPOSAL FOR READJUSTMENT OF NEWLY PROMOTED PMOs BPS-19

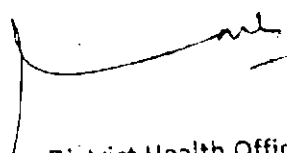
Sir,

Reference your office Notification No. SOH (E-V) 4-22/ 2019 dated 31/5/2019, the following recently promoted PMOs (BPS-19) have been posted as below:-

At S.No.	Name of Doctor	From	To
159	Dr. Nasreen Akhtar d/o Haider Khan	Attached to DHO Swabi	Services placed at the disposal of DHO Swabi
193	Dr. Taj Wali Shah PMO BS-19	Civil Hospital Kabgani Swabi	Category-C Hospital Top Swabi

The above mentioned doctors submitted their arrival reports.

It is, therefore, requested that Dr. Nasreen Akhtar may please be retained at Category-C Hospital Top against the vacant post of PMO BS-19 as 24/7 BEMONC Centre is functional at Cat-C Hospital Top and WMO is required in the larger public interest. Moreover, Dr. Taj Wali Shah may please be retained at Hospital Kabgani against the sanctioned vacant post of PMO BS-19.


District Health Officer
Swabi



(7) (C)

GOVERNMENT OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

Dated Peshawar, the 18th June, 2019

NOTIFICATION

NO.SOH(E-V)4-22/2019 In partial modification of this Department Notification of even number dated 31.05.2019, the competent authority is pleased to order posting/transfer of the following doctors with immediate effect in the public interest:-

S#	Name of Doctor	From	TO
1.	Dr.Nasreen Haider PWMO.BS-19	Attached to DHO Swabi	Category-C Hospital Topi Swabi
2.	Dr.Taj Wali Shah PMO BS-19	Civil Hospital Kabgani Swabi	Civil Hospital Kabgani Swabi

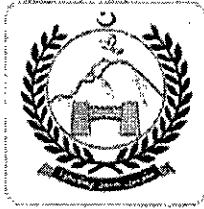
SECRETARY HEALTH
Govt of Khyber Pakhtunkhwa

Endst.No & Date Even.

Copy to the:-

1. Accountant General Khyber Pakhtunkhwa
2. Director General Health Services, Khyber Pakhtunkhwa.
3. District Health Officer Swabi
4. District Accounts Officer Swabi
5. PS to Minister Health, Khyber Pakhtunkhwa
6. PS Secretary Health, Khyber Pakhtunkhwa
7. Doctor concerned.


(FAZAL ALI)
SECTION OFFICER (E-V)



**KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL, PESHAWAR**

No. 2498 /ST

Dated: 15/12 /2021

All communications should be addressed to the Registrar KPK Service Tribunal and not any official by name.

Ph:- 091-9212281
Fax:- 091-9213262


To

The Secretary Health Department,
Government of Khyber Pakhtunkhwa,
Peshawar.

Subject: JUDGMENT IN APPEAL NO. 1587/2019 MR. TAJ WALI SHAH.

I am directed to forward herewith a certified copy of Judgement dated 08.10.2021 passed by this Tribunal on the above subject for strict compliance.

Encl: As above


REGISTRAR
KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL
PESHAWAR